By Mr. NICHOLS:
H.J. Res. 1252. Joint resolution to provide for the designation of the second week of May of each year as National School Safety Patrol Week; to the Committee on the Judiciary.

By Mr. PRICE of Texas:
H.J. Res. 1253. Joint resolution to authorize the temporary funding of the Emergency Credit Revolving Fund; to the Committee on Agriculture.

By Mr. ROUSH:
H.J. Res. 1254. Joint resolution to authorize the temporary funding of the Emergency Credit Revolving Fund; to the Committee on Agriculture.

By Mr. HAMILTON:
H. Con. Res. 771. Concurrent resolution urging the President to convey to the Government of France the sense of the Congress with respect to the responsibility of France in connection with the repudiation of its international obligations undertaken in furtherance of the North Atlantic Treaty; to the Committee on Foreign Affairs.

By Mr. ABERNETHY (for himself, Mr. GRIFFIN, Mr. MONTGOMERY, and Mr. WHITTEN):
H. Res. 1139. Resolution expressing the sense of the House with respect to the use of certain Government property; to the Committee on Public Works.

By Mr. COLMER (for himself, and Mr. LENNON):
H. Res. 1140. Resolution expressing the sense of the House with respect to the use of certain Government property; to the Committee on Public Works.

By Mr. GETTYS (for himself, Mr. HULL, Mr. MCMILLAN, Mr. RIVERS, Mr. GATHINGS, Mr. DORN, Mr. NICHOLS, and Mr. SIKES):
H. Res. 1141. Resolution expressing the sense of the House with respect to the use of certain Government property; to the Committee on Public Works.

By Mr. HALEY (for himself, Mr. HERLONG, Mr. FUQUA, Mr. ROGERS of Florida, and Mr. BENNETT):
H. Res. 1142 Resolution expressing the sense of the House with respect to the use of certain Government property; to the Committee on Public Works.

By Mr. LANDRUM (for himself, Mr. O'NEAL of Georgia, Mr. DAVIS of Georgia, Mr. BRINKLEY, and Mr. STUCKEY):
H. Res. 1143. Resolution expressing the sense of the House with respect to the use of certain Government property; to the Committee on Public Works.

By Mr. MORGAN (for himself, and Mrs. BOLTON):
H. Res. 1144. Resolution commemorating the 20th anniversary of the State of Israel; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS:
H.R. 16873. A bill for the relief of Ah Mee Qu Locke (Amy Locke); to the Committee on the Judiciary.

By Mr. ADAMS (by request):
H.R. 16874. A bill for the relief of German D. Anulacion; to the Committee on the Judiciary.

By Mr. ADDABBO:
H.R. 16875. A bill for the relief of Thomas McHugh; to the Committee on the Judiciary.
H.R. 16876. A bill for the relief of Anna Marrossa; to the Committee on the Judiciary.
H.R. 16877. A bill for the relief of Vito Scherma; to the Committee on the Judiciary.

By Mr. ANNUNZIO:
H.R. 16878. A bill for the relief of Dr. Roland Ang Lim, Mrs. Dominga A. V. Lim, Jennifer Cynthia Lim, and Roland Lim, Jr.; to the Committee on the Judiciary.

By Mr. BERRY:
H.R. 16879. A bill for the relief of Lawrence Brink; to the Committee on the Judiciary.

By Mr. EDMONDSON:
H.R. 16880. A bill for the relief of Phillips Petroleum Co., a Delaware corporation, and David Miller; to the Committee on Interior and Insular Affairs.

By Mr. FRIEDEL:
H.R. 16881. A bill for the relief of Nikitas Baltas; to the Committee on the Judiciary.

By Mrs. KELLY:
H.R. 16882. A bill for the relief of Generosa Fusco; to the Committee on the Judiciary.

By Mr. MONTGOMERY:
H.R. 16883. A bill for the relief of Mrs. Marie Howell; to the Committee on the Judiciary.

By Mr. OLSEN:
H.R. 16884. A bill for the relief of Sushil Kumar Verma; to the Committee on the Judiciary.

By Mr. RONAN:
H.R. 16885. A bill for the relief of Peter Karonis; to the Committee on the Judiciary.

By Mr. ROYBAL:
H.R. 16886. A bill for the relief of Yun Keum Park; to the Committee on the Judiciary.

By Mr. SCHEUER:
H.R. 16887. A bill for the relief of Cuthbert DaCosta McClean; to the Committee on the Judiciary.

By Mr. TUNNEY:
H.R. 16888. A bill for the relief of Armindo Lopez Fernandez-de Carvalho; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

296. By the SPEAKER: Petition of Richard A. McQuade, Rosemount, Pa., relative to deserters from the U.S. Armed Forces; to the Committee on Armed Services.

297. Also, petition of Georgia Bankers Association, Atlanta, Ga., relative to the dollar drain and its effect on this country; to the Committee on Banking and Currency.

298. Also, petition of the board of supervisors, San Joaquin County Flood Control and Water Conservation District, California, relative to Federal-State conflict over water rights; to the Committee on Interior and Insular Affairs.

299. Also, petition of Mrs. Lucille Drake, Chicago, Ill., relative to foreign nations; to the Committee on the Judiciary.

300. Also, petition of Mrs. Hattie Carter, Washington, D.C., relative to a personal injury claim against the Government; to the Committee on the Judiciary.

SENATE—*Monday, April 29, 1968*

The Senate met at 10 a.m., and was called to order by the President pro tempore.

Hon. WALLACE F. BENNETT, a Senator from the State of Utah, offered the following prayer:

Our Father in Heaven, at the beginning of another deliberative day, we, to whom has been assigned the responsibility of considering laws for the operation of this Government and the rule of the people, meet with the plea in our hearts that Thy spirit may be with us in our deliberations.

In this period, when our beloved country is torn with dissension, when men are looking in every direction for solutions to our many problems, we pray that the hearts of those of us who have this responsibility may be turned to Thee, that we may search there for the ultimate solution of these problems. Bless us that we may search for unity rather than division, that we may realize that Thou art the giver of all good and perfect laws, and that the best laws we can write will be rooted in the laws that Thou hast laid down over the centuries for the conduct of men.

With this prayer in our hearts, we face again our responsibilities, asking for Thy blessing on our efforts, in the name of Thy Son, Jesus Christ. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, April 26, 1968, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTIONS OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Massachusetts [Mr. BROOKE], there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Chair recognizes the Senator from Massachusetts.

A PERSPECTIVE ON AFRICA: AFRICAN OBJECTIVES AND AMERICAN POLICY

Mr. BROOKE. Mr. President, before beginning my prepared remarks, I wish

to express my great appreciation to a number of distinguished guests who are in the Capitol this morning.

Assistant Secretary of State Joseph Palmer and members of his staff, together with many American diplomats at embassies and consulates in Africa, contributed immeasurably to making my recent study trip to that continent a fruitful learning experience.

At the same time, I am deeply grateful and highly honored that a number of distinguished representatives of the countries which I visited have joined us this morning.

The peoples and leaders of Africa are warm and hospitable. Their courtesy to me has been unstinting, and I am extremely pleased that these distinguished guests are able to be with us today.

Mr. President, early this year I undertook a study mission, on behalf of the Committee on Banking and Currency, to a number of African countries. Between January 12 and February 3, I visited Senegal, Guinea, Liberia, the Ivory Coast, Ghana, Nigeria, Congo (Kinshasa), Zambia, Botswana, Tanzania, Uganda, and Kenya. These countries encompass approximately one-half of the continent's population and a major fraction of its land area.

In a region so vast and so varied, no group of states could be termed representative, and no brief visit could provide a deep and balanced knowledge of the area. But I learned much during my period in Africa. Today I should like to discuss at some length my principal observations and conclusions, concentrating especially on some of the pressing issues and implications for U.S. policy in Africa. Although my limited experience in Africa permits nothing more than tentative and qualified findings on most counts, I believe it is imperative for the Senate and other elements of the American Government to begin exploring problems in this area. I hope that my remarks may make a useful start on this important task.

The purpose of my trip was to study economic development and political conditions in the region. I was interested in analyzing the U.S. AID program, the Peace Corps, and the role of American private investment. I also wanted to look closely at other sources of foreign investment and assistance, most particularly the programs of our European allies and of the Soviet bloc and China. I talked with heads of state and directors of regional and Pan-African economic organizations, and attempted to assess the prospects for further regional and multinational cooperation. And, finally, I was interested in the prospects for political stability, not only within each individual country but also in the larger context of international cooperation within Africa. In this regard, my attention focused primarily on several known "trouble zones," particularly the present civil war in Nigeria and the racial situation which has been smoldering for some time in southern Africa.

Let me make clear at the outset my conviction that our preoccupation with Southeast Asia is leading us to neglect other areas of growing significance in the developing world. My attempt to assess the current status of Africa's economy and politics from this standpoint is an individual effort to insure that, in the midst of the Asian conflict, the major issues in Africa receive attention in the American Government. In my opinion, one of the most important roles which Members of the Senate can play is to see that the intense focus of our Government on today's urgent business does not cause us to lose sight of other questions we must be prepared to meet if tomorrow's affairs are not to be even more troubled.

The crisis in Asia, in which we are so embroiled today, was brewing at a time when our attention was focused on other matters: on Europe, on the international monetary system, on winning the Second World War. For many years Asia was regarded as the domain of our allies in Europe, of American missionaries and businessmen, and of a few "Asian experts" in the State Department.

Today, the situation has changed. We are deeply involved in Asia, in a contest that has many fronts and many ramifications. Now it is Africa that is regarded as the domain of our allies in Europe, of American missionaries and businessmen, and of a few experts in the State Department. We tend to think of Africa as a maze of tiny independent states—41, in fact—which are economically nonviable, politically tumultuous, and relatively outside the range of our immediate national interest.

This is not so. Botswana, one of the countries which I visited, is larger than the State of Texas. Yet it had never, in almost 2 years of independence, received an official American visitor. Another state, with one-quarter the territory and population of the United States itself, has been engaged in a bloody civil war for many months, using sophisticated weapons, tanks, and jet aircraft. Yet until recently its plight had received relatively little attention in the American press, despite the massacre of untold thousands of men, women, and children on both sides of the conflict.

In the five states of Southern Africa, over 32 million people are denied the right to participate in making the laws by which they are governed, and are segregated and classified on a purely racial basis. Trouble is brewing in this area, for, as the white minority governments have become more repressive, numerous well-organized liberation groups have turned to violence to secure the rights of the majority. It behooves us to acquaint ourselves with trends and conditions in this vital region.

Africa is already an important force in world affairs, and this importance will inevitably increase as the African nations come into their own. The continent is three times the size of the United States; it accounts for 20 percent of the land mass of the world. It has a population of over 250 million, which is larger than that of the United States. It has 40 percent of the world's potential hydroelectric power; 65 percent of the world's gold supply; 96 percent of the world's diamonds; and at least 25 percent of its known copper reserves. In addition, large deposits of offshore oil have been discovered along the western coast of Africa. The bulge of West Africa, notably Guinea and Ghana, possesses some of the world's richest sources of bauxite, from which aluminum is made. Africa has twice the uncut forest area of the United States, more arable land and grazing land than the entire Soviet Union. Africa, in short, is a wealth of untapped resources. Its present level of crop production can be multiplied many times over by the use of mechanical implements, by improved methods of water control, by using fertilizers and insecticides, and by bringing more acres under cultivation.

In terms of conventional warfare, Africa occupies a strategic position in the world as well. During World War II, it was from North Africa that the great battles were fought to determine who would control the vital supply route of Suez, the Mediterranean, and Gibraltar. It was from the French-speaking states to the south that a large portion of the supplies and reinforcements were derived. Naval bases in southern Africa kept open the alternate supply route around the Cape of Good Hope.

Even today, Europe depends heavily on access to the Suez Canal and the Mediterranean supply route for its oil supplies. This water route is still the most effective means of exchanging goods with the nations to the east—including such important trading partners of Western Europe as Australia, India, and New Zealand. At times when the Suez Canal is closed, as it has been since last year's Middle East war, the alternate route around the cape of Africa assumes a new and greater importance. South Africa has the only harbor south of the Sahara where major naval and commercial vessels can dock, refuel, and undergo repairs, though several of the countries of West Africa, such as Senegal, Guinea, Nigeria, and the Ivory Coast, are deepening their shipping channels and may assume a larger role in the years to come.

Ethiopia, South Africa, and the Malagasy Republic have cooperated in the American space program, providing valuable sites for radar and tracking installations. Other African states have played helpful roles in a variety of joint scientific, technical, and commercial ventures with the United States.

African nations have also attracted a growing share of U.S. trade and investment. American private investment in Africa now totals more than $2 billion, while the volume of trade with all the African states has more than doubled in the last decade. Our annual exports to Africa increased from $623 million in 1955 to $1.2 billion in 1964. At the same time our imports from Africa rose from $534 million in 1955 to nearly $1 billion in 1964.

All of these statistics are important. By any yardstick—economic, political, geographical—Africa's role in the world is large and expanding.

The emergence of Africa is part of a broader phenomenon with which we are all familiar, the rise of nationalism and the struggle for independence in the former colonies. In Africa as elsewhere, most of those colonial territories have now achieved their independence. The

end of the colonial era has transformed world politics.

The new nations of Africa, Asia, and Latin America have chosen many paths to development. But in their immense diversity they have several things in common: they are poor; they are nonwhite; they are for the most part non-Christian; and they contain by far the major portion of the world's population, land area, and natural resources.

Western values and Western culture predominate in a surprisingly small portion of the world, and that portion seems to be shrinking. While Western culture, if assessed in material terms, has had a sustained impact throughout the world, it can be anticipated from present educational trends that only a declining proportion of the governing elite will in the future be "Western" in education, religion, and background. One measure of these countervailing tendencies is the fact that within the next 25 years most of sub-Saharan Africa will not be Christian, but Moslem.

This trend need not disturb us. Western culture is unique, and it is only being realistic to understand that no area of the world can adopt the values of another in toto. Africa will be itself, neither Eastern nor Western, but a distinctive blend of those cultures together with its own, an incredible multiplicity of tribal and regional subcultures. And that is as it should be. The diversity of mankind has always been one of its most precious qualities. Africa has much to contribute to that diversity.

To say this, however, is not to say that Africa can or should develop in isolation from the rest of the world. The leaders of Africa recognize what is also obvious to non-African observers, that Africa's future welfare is very much tied to its ability to find a solid place in the world at large. If the continent is to become an arena of human progress, rather than a quagmire of human misery, it must enlist the good will and assistance of the more developed nations. And I believe that the political and economic interests of the advanced nations, as well as their moral values, are served by a posture of generous cooperation with the new states of Africa and other continents.

AFRICAN OBJECTIVES AND PRIORITIES

If such cooperation is to be fruitful, those of us in the developed nations must comprehend and respect the objectives established by the African leaders and people themselves. Ten years ago, those objectives could have been summed up in a single word: independence. Today those goals and the methods for obtaining them are infinitely more complex.

There are presently 41 independent countries in Africa. Beginning with the Sudan in 1956, 34 of these countries have obtained their independence in the past 12 years.

African nations are, for the most part, in the unenviable and ambiguous position of having fought for and secured de jure political independence, while remaining dependent to a large extent upon outside support for their survival as nations. Independence is thus still a very real issue, while the specific objectives subsumed under that heading are more subtle and more difficult to achieve than the original goal of "a constitution, a flag, and free elections."

In the postindependence period, the nations of Africa are striving for freedom from undue foreign influence, for economic independence, for a secure bargaining position in the world market, for an independent and constructive role in dealing with world problems. Achievement of these goals requires the rapid and efficient development of each country's own resources and capabilities.

Because such development cannot occur where the population is largely uneducated, African leaders have given high priority to massive efforts to educate their people. In many countries, the literacy rate is a bare 10 or 15 percent of the total population. Thus the initial goal of most African nations has been to develop their manpower reserves as quickly as possible. Great strides have been made in this field. In Nigeria, the percentage of school-age children actually attending schools has reached 50 percent in the southern regions. In Liberia, President Tubman has undertaken an intensive program to forge national unity which has focused on educating the tribesmen in the interior of the country. In Tanzania a massive program is underway to prepare the youth of the country for constructive participation in the economic and political processes. In most African countries the percentage of the national budget devoted to education varies anywhere from 12 to 30 percent. Education is, indeed, a primary concern of all African leaders. And it is liable to become more so, for already more than 50 percent of the population of most African nations is below the age of 15, and the number of young people is increasing every year. Some nations find that even doubling the number of schools or teachers since independence has hardly allowed them to keep up with the natural increase; the percent of children in schools has not increased at all. Nor is it enough simply to provide an education. Africa's youth must be educated for something if the intensive concentration on primary and secondary schooling is to achieve its real goal. African leaders are learning that an educated population with nowhere to go can be a greater handicap than a population which is 90-percent illiterate. Most of the young people who finish primary or secondary school have not been willing to return to the farm. Positions must be found for them in the economy, and since the economies of most African nations are still quite traditional, these positions have increasingly been found in the government bureaucracy. The result has been an overwhelming concentration of relatively educated and ambitious young people in the government hierarchy, with a consequent drain on the government's limited resources and a significant decrease in the ability of the government to meet the needs of the general population. Many young people in Africa take it for granted that the government which educated them and raised their aspirations now has a responsibility to provide them with adequate employment opportunities.

The long-term solution to this ever-growing problem is the same for virtually all developing nations: diversification of industry and of agriculture. This has become the second great priority of the African States. If more jobs become available in the private sector, the pressure on government will be relieved, and those who acquire an education will find the kind of productive employment which they and their country so desperately need.

Diversification has begun, and has taken many forms. In Uganda, Zambia, and Tanzania, for instance, the governments have undertaken to make agriculture more scientific, to provide fertilizers and hand tools and new types of seed, and to instruct the farmers in their use. Tanzania has also been adamant about telling their students that at least 50 percent of them must find employment in the agricultural sector. It is hoped that by introducing new crops and new methods of farming, by utilizing the good soils and favorable climate, by encouraging the development of marketing cooperatives and by building roads into the interior of the country, the agricultural sector may begin to contribute its full share to the country's exports, foreign exchange earnings, and domestic savings.

Diversification has also taken the form of building industries based on the availability of domestic agricultural products. A country which produces cotton and sisal, for example, should be able to develop textile and rope factories of its own rather than exporting the raw materials and purchasing the finished goods from abroad. Countries which have large fishing industries, or produce pineapples or cocoa, are beginning to establish canning and processing factories for those products. The advantages to the economy are multiple: the industries provide jobs for the increasing number of skilled and semiskilled workers in the urban areas, as well as providing opportunities for employment of an educated, incipient entrepreneurial class. The products which are exported in finished form bring higher prices, and are less subject to spoilage and other types of damage which have reduced income from perishable exports in the past. And finally, the manufacture of consumer goods, while increasing the need for capital goods, may, in the long run, lessen the dependence of these nations on foreign imports.

Within this attempt to broaden the base of the economy, there are a multitude of employment opportunities for youth who have been properly trained. Young people who have completed primary school but have not the means or ability to go on for higher education are being encouraged to enter technical and vocational training schools. Ministries of Agriculture and of Economic Development are training agricultural experts and technicians to assist in the expansion and development of that sector of the economy. Some countries have instituted programs for small businessmen, and young people are being encouraged to enter the field of marketing and sales which were previously the exclusive domain of Asian or Middle

Eastern entrepreneurs, or of large Western concerns.

As development has begun within individual African states, the attention of the leaders has turned increasingly to the likely advantages of regional cooperation. Regionalism itself has become a major objective of many African leaders. There are at the present time no less than 42 different multilateral economic organizations among the independent African States. These range in size from the African Development Bank, which claims 29 members, to a cooperative arrangement between the Nigerian and Ghanaian Airways. One of the most successful regional organizations is the East African Community composed of Kenya, Uganda, and Tanzania. The Community operates a Development Bank, the East African Airways Corp., and joint communications and port facilities. A common market is also in the initial stages of formation, and a joint tax structure is being devised.

Recently, there have been increased efforts to overcome the colonial framework and to work together in new regional groupings regardless of previous colonial status or present stage of development. Thus the East African Community is reviewing the applications for membership of Zambia, Somalia, and Ethiopia. Their inclusion in the Community could have ramifications far beyond the obvious economic consequences. Somalia, Ethiopia, and Kenya have been engaged for years in bitter border disputes and irredentist wars. Hostilities among some of these states were terminated as a precondition for negotiation with the Community. In this case the prospect for regional economic cooperation bears with it the promise of greater political stability as well.

Taking their cue from East Africa, the nations of West Africa are also beginning to discuss the possibilities of a West African common market. While such an organization is in the future, there are at least some steps toward regional cooperation which can be taken at the present time. Ghana and Liberia, for example, have been leaders in the effort to overcome the barriers of language and culture, and to establish closer ties with their French-speaking neighbors, both through trade and aid, and through the sharing of common facilities such as Ghana's Volta River hydroelectric project.

Practically all the African states are becoming aware of the need to work together. Whether that cooperation takes a general form, such as participation in the African Development Bank, or a functional form, such as membership in the Cocoa Producers' Alliance or the Inter-African Coffee Organization, regional cooperation seems to be the wave of the future.

Africa's goals—independence, education, economic diversification, and regional cooperation—merit our support. Africans are grateful and Americans can be proud that the United States has expressed its support for Africa's ambitions in a variety of constructive ways. But American policy in Africa confronts a number of difficult problems which demand more attention than we have yet given them. American programs in Africa face both obstacles and opportunities which deserve more resources than we have yet supplied.

Mr. President, I propose to review some of the more critical aspects of these programs and problems, and to outline what seems to me some necessary guidelines for future U.S. efforts in Africa.

U.S. POLICY AND PROGRAMS IN AFRICA

The United States has enjoyed three political assets in its relations with Africa: It is not and never has been a colonial power, it has a large population of African descent, and it is a nation whose own democratic revolution gave it a certain kinship with the new nations. From the standpoint of the new African states and of this country, these factors argued for warm and cordial relations.

But those relations have not developed as rapidly or as richly as might have been expected. There are many reasons for this, but the dominant one has probably been the problem of scale. So many African states have become independent so quickly that the United States has not been able to cope with them as effectively as we might desire. This is well illustrated by the experience of the U.S. foreign assistance programs in Africa.

In 1958, there were eight independent African states: Ethiopia, Ghana, Liberia, Libya, the Republic of South Africa, Sudan, Tunisia, and the United Arab Republic. Excluding South Africa, which is regarded as a developed country and has never received assistance from the United States, the remaining seven countries shared among them a total of $86.4 million in AID loans and grants. Four years later there were 29 independent African states, at a time when direct American assistance to all of Africa totaled $322.2 million. Today there are 41 independent African states, while U.S. loans and grants to Africa have declined to $202.2 million. Thus, if U.S. assistance could be computed on a per country basis, American aid has been steadily declining from an average of $12.3 million in 1958 to $5.3 million in 1966, or less than half the amount available per country only 8 years before. While Peace Corps and Public Law 480 assistance have made up some of the difference, they do not begin to provide the quantity of aid required for rapid advancement.

As the number of African countries increased, the United States became increasingly concerned about the difficulties of assisting their development on an individual basis. Many of those in the AID program felt that by trying to help too many countries we would in fact be spreading our development funds too thin, and our aid would have minimal effect. In their judgment, to attempt everything was to achieve nothing.

There were two primary factors involved in the revisions of U.S. aid to Africa, which were decided on in 1966 and put into effect this year. One was the report of the former American Ambassador to Ethiopia, the Honorable Edward M. Korry, on "U.S. Policies and Programs" in Africa. The other was a congressional limitation on the total number of developing countries which could receive U.S. assistance.

The main thrust of the Korry report was that, because African development will be a long and difficult process, American assistance should concentrate as much as possible on regional and multinational programs which will have a long-term impact. The report argued that bilateral aid should be given only to those few countries whose size, population, resources, and performance afford the best opportunity for significant progress.

In fiscal year 1967, AID allocated only 10 percent of its development assistance funds for Africa to regional projects. The remainder was divided among 34 countries on a bilateral assistance basis.

In fiscal year 1968, the first year in which the new regional preference is being followed, it is expected that 20 percent of the AID funds will go to regional projects, with a planned rise to 37 percent in fiscal year 1969. During this time bilateral assistance programs are to be phased out for all but 10 countries which are considered to have particularly good prospects for development success, or which have a special interest or relationship with the United States. These 10 countries, the so-called development emphasis nations, are Liberia, Ghana, Ethiopia, Tunisia, Morocco, Sudan, Nigeria, and the three East African Community members, Kenya, Uganda, and Tanzania. The Congo (Kinshasa) will also continue to be eligible for a special category of supporting assistance which was begun by the United States during the military crises of the early 1960's. But some nations receive no direct American assistance. For example, Botswana, a friendly but poor country, has received no U.S. development aid apart from an extremely modest Peace Corps program which has just begun.

There is, of course, merit to the approach advocated by the Korry report, and there were defensible justifications for a congressional limit to the number of nations eligible to receive direct U.S. assistance.

For many nations, regional cooperation may be the best solution to a number of their development problems. The regional approach to assistance received the endorsement of two Vice Presidents of the African Development Bank with whom I spoke; they pointed out that the Bank itself is emphasizing regional programs, and hopes to receive some capitalization from the United States.

But while regional assistance is important, African countries still need considerable bilateral assistance as well. The two forms of assistance can and ought to be complementary, not mutually exclusive.

Many regional projects do not reach the majority of the people, except indirectly. Their benefits to the economy are not immediate, but long term. Furthermore, these are often the very projects which are receiving or can receive considerable assistance from other sources: The World Bank, the International Monetary Fund, and the African Development Bank.

The United States already contributes substantially to the World Bank. The President has indicated his intention of shortly asking for a special appropria-

tion for the African Development Bank. American contributions to such institutions are desirable, and, I believe, the proper means through which many regional assistance programs should be handled.

In reviewing American efforts in Africa, I found that those programs which received the highest marks from the Africans with whom I spoke were those which involved Americans and Africans in direct, sustained working relationships. Ambassador Sol Linowitz has commented perceptively that the best way to sell the American idea is to "wrap it up in a man." The most notable American programs in Africa have been the Peace Corps projects, the work of American doctors, the assignment of American teachers to African universities, the efforts of American agricultural technicians in increasing rural production, and the endeavors of private American industry in developing local enterprises.

These programs have won friends for America. But most importantly, they have helped to meet the essential needs of the African states for improved health and education, for agricultural development, and for general economic expansion.

I believe that American assistance should retain more of its original, bilateral character and should be geared to the development of human resources. Bilateral programs may be hard to administer effectively, but they are certainly worth the additional effort. We should grant longer term loans at less interest; schools, health centers, and even small businesses will not liquidate their initial costs in short periods. Such programs, designed to supplement the assistance of international bodies and former colonial powers, would be of greater value to the African states than an exaggerated emphasis upon regional planning. In recommending such an approach, I am also taking into consideration the benefits which such a program would have to the United States.

Many African leaders feel that the new emphasis on multilateral channels and the reduction in total U.S. assistance mark the beginning of an American economic withdrawal from Africa. I do not believe this is the case and I took pains to point out to those leaders the present financial difficulties of this country. To bolster African confidence in our long-term intentions, it is my conviction that we should now make clear our determination to increase U.S. assistance programs in Africa as soon as the exigencies in Asia permit.

In lieu of a substantial expansion this year in funds for foreign aid, I believe that Congress should remove the country limitations it has imposed so as to allow as much flexibility in our aid program as possible. Furthermore, the Congress should recognize that the AID budget has already been pruned severely. The reduced appropriations which have been requested should receive prompt congressional approval.

Obviously, foreign aid cannot provide all the answers to Africa's development problems. U.S. foreign assistance, 90 percent of which is spent in the United States, often results in the recipient countries becoming more deeply in debt, with a consequent reduction in the amount of domestic funds available for their own development. Because of their soaring indebtedness, there is a danger that the developing nations may become capital-exporting states—a condition they can hardly afford.

If the developing countries are truly to improve their economic position in the world, they must be able to sell their products at reasonable prices and to accumulate their own development capital.

The United States and the other developed nations could and should offer to support the world prices of certain basic commodities. The International Coffee Agreement and the discussions regarding cocoa represent a worthwhile beginning. But even this can only be a temporary solution to the problem of integrating the new nations into the world trade system.

Other possibilities should also be considered. It may be necessary to give tariff preferences or even credits to the manufactured goods of some of the new African nations, so that they may increase their capital and develop the wage-labor sector of their economy to the point where domestic markets can absorb a large share of their products. At the present time, the tariff structures of the developed nations actually discourage manufacturing in the developing states, for high import duties prevent them from selling their goods abroad. At the last meeting of the U.N. Conference on Trade and Development many of these issues were considered, but not resolved. The United States should take the lead in pressing for action in these fields. Only through such initiatives will the economic gulf between the developed and the developing nations be permanently bridged.

will, in the short run, leave the develop-

The hard fact is that the aid we give ing nations more in debt than before, although enlightened policies by the United States and other donor nations can make it possible for recipients to support high external debts. As many of them are coming to realize, the long-term answers to their problems lie in trade, not aid. Their objective is to help themselves; our objective must be to help them to help themselves.

PRIVATE INVESTMENT

Development aid cannot and should not be limited to public assistance alone. In the long run a most significant role in African development is open to business and private investment. Governments alone cannot assume the full responsibility for economic development. Governments can help to determine needs and priorities. They can give guidance and incentives. They can make direct investment in areas which are not directly remunerative, such as education and health and development of an effective infrastructure. But private investment has a definite contribution to make, not only in the obvious areas of investment, development, and profit accumulation, but in a variety of related fields as well.

Mr. President, I am pleased that Africa is attracting increasing amounts of U.S. private investment. In 1966, the latest year for which accurate figures are available, American private investment in Africa as a whole amounted to $2.1 billion; of this $300 million was in Liberia, rubber; $428 million was in Libya, oil; $601 million in South Africa; and the remainder, or $879 million, in the other nations of Africa.

Over the past several years there has been a steady increase in private investment in the newly independent African states. This is due in part to the success of certain major business concerns, such as Valco in Ghana and Firestone in Liberia, whose ventures have attracted widespread attention in the American business community. Studies conducted by such organizations as the U.S. Chamber of Commerce and the U.S. Department of Commerce have underscored the attractiveness of investment in Africa. Also, the African countries themselves are beginning to recognize the advantages to be gained from American private investment, and are not only publicizing their resources and opportunities, but are offering concessions to attract investors. And finally, the recently announced limitation on foreign investment, which prohibits all new direct investment in developed countries and limits reinvestment in such countries, will have the effect of encouraging businessmen to look to the developing states for foreign investment opportunities. The relative attractiveness of investment in Africa should increase.

Yet, in a continent which has the vast resources and potential of Africa, American private investment equals only about 2.6 percent of total American investment abroad. What is more, with the exception of South Africa which has well over 250 American firms contributing to its economy, the majority of American investments in Africa are limited to a few fields and a few firms. The relatively slow growth of U.S. private investment in the region is surprising when one considers the good profit record shown by investments in Africa. Tentative studies reveal that American business has been doing better in Africa, in terms of return on investments, than in any other part of the world.

The investment opportunities in a large number of African countries are improving markedly. But there is a significant discrepancy between those industries and fields in which American firms have invested in the past, and those which will prove to be of greatest benefit to the economies of the host countries. This is not, in my estimation, because the opportunities in these other areas are any less attractive. It is more likely to be a result of the fact that African countries need investment in specialized projects: small businesses of many types, machine tools, food canning, paper and box manufacture, refrigeration facilities, and home construction. These industries are generally operated on a smaller scale than are the oil and rubber and banking concerns which are presently most active in Africa. American businessmen in these fields may not be as aware of the opportunities for investment abroad, or as interested in learning about them. They

can and should be encouraged to investigate the opportunities available; the U.S. Government and the governments of the African states should take a more active role in disseminating information to potential investors in these businesses and industries.

PEACE CORPS AND SMALLPOX-MEASLES PROGRAMS

Before discussing other issues, I would like to comment briefly on two of the most notable American endeavors in Africa, the Peace Corps and the smallpox-measles eradication program. Americans should know more about these undertakings, for few American efforts abroad have accomplished so much and reaped so much good will for our country.

At last count, there were nearly 3,000 Peace Corps volunteers serving in 23 countries in sub-Saharan Africa. Three thousand young Americans working in towns and villages throughout an entire continent, coming into daily and intimate contact with hundreds of people speaking a different language, observing vastly different cultural patterns, and living very different ways of life, can have a tremendous influence. Properly trained for the hardships they must endure, these volunteers can literally move mountains; they win innumerable friends both for themselves and for the Nation they represent.

In the countries where the Peace Corps is active, the concept of the Corps, the projects they have undertaken, and the behavior of the volunteers have won high praise.

Mr. President, I had the opportunity to talk with Peace Corps workers in a number of fields. I found that secondary education has been the most popular project for volunteers to date. Africans with only a primary education are teaching basic skills to African children in many countries. But few countries have enough qualified teachers to provide the more advanced education required by the ever-growing number of primary school graduates. African cities are being flooded with uneducated or undereducated youth looking for employment. These young people want a better education but the governments simply do not have the teachers or the facilities to provide instruction. In a number of countries Peace Corps volunteers have been requested to fill the gap and this has been the principal function of the Corps in Senegal, Tanzania, and several other countries.

But this is not the whole story by any means. While education may be the No. 1 goal in many of the nations of Africa, there is a growing realization that general education alone will not solve the problems of development. There must be education and training in the areas where useful jobs will exist: business, the vocations, and teaching. Furthermore, education must be accompanied by improvements in health, community development, agricultural production, and marketing skills and administration. An increasing number of volunteers are being trained and are serving in these fields as well.

I cannot conclude my discussion of the Peace Corps without mentioning one serious problem which it has encountered. In some countries the Peace Corps has been prejudged not on its own merits but because, as President Nyerere of Tanzania observed, "it bears the burden of a Great Power." One measure of this burden is the suspicion in some parts of Africa that the Peace Corps is closely associated with U.S. intelligence operations. One cannot simply dismiss such suspicion by fiat. What is called for is a mature restraint regarding the very special institution which is the Peace Corps. We must make absolutely certain that the integrity of the Corps is safeguarded. At the same time the states in which the Corps is working must resist the temptation to take reprisals against the Corps for unrelated political frictions which will undoubtedly arise from time to time.

The distinguished achievements of the Peace Corps are a tribute to the program's concept and to the volunteers themselves. African leaders are virtually unanimous in their requests for more trained volunteers in a variety of additional fields. The Director of the Peace Corps announced just the other day that applications were up nearly 30 percent over last year. Clearly a great many Americans appreciate the opportunities for humane service as Peace Corps volunteers. We should continue to expand the Corps to meet the growing need for such service.

Mr. President, less well-known than the Peace Corps is another exemplary American project, the smallpox-measles eradication program. It is unquestionably one of the most successful projects ever undertaken by the United States in Africa. Since the first doctors and equipment arrived in late 1966, the program has been extended to 19 African countries. Its goal is the immunization of 105 million people, and the eventual eradication of these two dread diseases in the entire region. In some countries the incidence of disease has already declined appreciably. I was in Africa on January 15 when the 25 millionth African was vaccinated against smallpox; by now the total is closer to 35 million.

With a staff of 36 American doctors and 1,100 West African doctors and employees, the program is ahead of schedule and is well on its way to one of the historic accomplishments in the field of public health. It has received the commendation and unqualified support of the leaders of the participating nations, and has elicited solid cooperation among the African states. The smallpox-measles program marks a high point in America's collaboration with the peoples of the continent.

Measles is a killer in a tropical climate, and it is highly contagious, as is smallpox. The diseases must be controlled throughout Africa. The promise has been made. The program has been initiated. The endeavor merits our ample and continued support, both financial and technical.

THE LARGER INTERNATIONAL CONTEXT

Mr. President, in designing American policy for Africa we need to be aware of the efforts being made by many other nations to aid and influence developments in the region.

U.S. assistance to Africa accounts for only a small fraction of the aid which those nations derive from the free world. The nations of Western Europe are large contributors to African development, as are Japan and Israel among the non-European states.

Since independence, the nations of Africa have continued to remain closely tied to the economies of the mother countries. In the case of the former French colonies, as much as 80 or 90 percent of their exports may still go to France. In return, the bulk of their manufactured goods and capital machinery may be imported from the former mother country. French private investment is heavy, particularly in such countries as the Ivory Coast and Senegal. And France gives foreign aid in the form of loans and grants to all her former colonies except Guinea.

The British likewise have maintained close ties with their former territories. Most of the major banks in Zambia, Kenya, Tanzania, and Uganda, for example, bear British names. British companies still invest heavily in both East and West Africa, and Britain gives these countries considerable economic assistance as well.

Total foreign aid from free world sources other than the United States is about $1.4 billion per year. Ninety percent of this aid comes from the 14 nations, other than the United States, which are members of the Development Assistance Committee—DAC—of the Organization for Economic Cooperation and Development.

The Development Assistance Committee attempts to coordinate the aid policies of the member nations. But the group's main objective of encouraging additional aid from the member states to meet the growing needs of the developing world has not been achieved. DAC has done little more than legitimize existing arrangements: it has, for instance, approved the policy whereby former metropolitan powers contribute the majority of their aid budgets to the former colonies.

DAC could, however, be more effective. Its operations ought to receive considerably more support from the United States and from the other members. Coordination of aid efforts is essential, and this organization provides a suitable starting point. In addition, other donor states could be invited to attend and to participate in deliberations. The African states themselves should be invited to send representatives to discuss development needs and priorities, and to enlist multinational support for various programs. The DAC concept is sound; the committee should be encouraged and utilized to the fullest.

It scarcely needs to be pointed out that the free world is not alone in the interest and attention it gives Africa. of a subdued but steady struggle for influence by the Soviet bloc, and the Chinese.

The Soviet Union has diplomatic representation in 29 of the 41 independent African nations. One or more of the Eastern European states are represented in 21 countries.

In addition, 14 African states have diplomatic relations with Communist

China, while two—Senegal and Nigeria—recognize both Chinas but have relations with neither. Of the 14 states, seven also have diplomatic relations with Cuba, and six have exchanged representatives with the Republic of North Korea. And at least two countries—Algeria and Tanzania—have exchanged diplomatic representatives with the National Liberation Front of South Vietnam.

The awakening of Soviet and Chinese interest in the nations of Africa coincided with the surge toward independence which occurred in the late 1950's and early 1960's. Both Communist countries were active participants in the various conferences of nonaligned states. African leaders were welcomed to Moscow and Peking in large numbers, and, beginning in 1960, the first trade treaties were signed between the Communist countries and a number of African states.

Trade with Africa has grown to the point where it accounts for 15 percent of the products which the Communist countries import from developing areas. In dollar terms, the Communist countries as a whole imported goods valued at $267.2 million in 1965, and exported to Africa goods valued at $360 million. This represented an overall increase in Communist trade with Africa of 30 percent over the previous year.

One serious problem encountered by the African states in their trade with the Communist countries is that their products are often paid for not in hard currency but in credits or in goods from Communist states. Thus a country like Guinea, which conducts half its trade with the Soviet bloc, has found that the exchange is of very little use in settling its balance-of-payments problem or in giving it additional purchasing power on the world market. Most African states are now trying to adjust their trade relations with the Communist countries, either by lessening their dependence on these nations as trading partners, or by securing hard currency for their goods.

Communist assistance to Africa is more difficult to determine in dollar terms than is its trade. For one thing, much of the aid extended by the Communist nations is in the form of trade credits, extended for 12-year periods, generally at 2.5 percent interest, which enable the developing country to purchase Communist goods on credit. Also, while pledges of aid are widely publicized, they are usually declarations of intent which must be followed by feasibility studies and agreements on specific projects. It is almost impossible to determine the exact cost of a project or the amount received in the form of a grant or loan from the Communist donor. Thus, total Communist assistance extended to Africa between 1954, the year the Communist nations inaugurated their foreign aid program, and 1966 is estimated at $1.5 billion, distributed among 18 nations. But the actual amount received in cash grants or products by these states may have been somewhat less.

To further their assistance programs, the Communists frequently dispatch technicians to serve as advisors, engineers, and managers. Between 1965 and 1966, the number of Soviet technicians in Africa rose from 2,720 to 4,170, an increase of 53 percent. At the same time, the number of East European technicians in African countries rose from 2,520 to 3,590, and the number of Communist Chinese technicians from 2,615 to 3,025, an increase of 42 percent and 15 percent, respectively. Three-fifths of all the East European and Chinese technicians serving in developing nations are working in Africa, while one-third of all the Soviet Union's foreign-based technicians and advisors are located there. Obviously, the Communist nations attach major importance to the continent.

It is not uncommon for Africans to seek assistance for particular projects first from the West, and to turn to the Communist nations mainly for proposals which have not won support elsewhere. This has been true, for example, in Tanzania, where the government of Julius Nyerere had been asking for several years for foreign assistance to construct a railroad from Zambia to the port of Dar-es-Salaam. Since Rhodesia's unilateral declaration of independence, Zambia has tried to reduce its dependence upon Rhodesian transportation links and has argued that the railroad is essential. But U.S. AID studies have shown that such a railroad is not economically feasible or necessary, contradicting studies conducted by the World Bank.

The United States has contended that a preferable alternative to construction of a costly rail connection would be improvement of the primitive highway linking the two countries. U.S. investments have already been made in this area, and U.S. technical experts have noted that the road can be made adequate at far less expense than is involved in constructing a railroad. In addition, there is something to be said for the fact that freight trucks are inherently more flexible than freight trains. Some analysts have disputed the arguments made in support of the railroad by stressing that they give too much weight to analogies in the experience of other countries, including the United States, where economic development closely paralleled the progress of the railroad. In modern times, these analysts stress, there is no basis for concluding that development should be tied to a 19th century technology. Beyond the opportunities afforded by automotive transport, a whole new era of air freight capability is opening with the construction of such giant aircraft as the C–5A. Studies should certainly be made to evaluate the potential advantages of using large aircraft for heavy transport between Zambia and Tanzania.

Nevertheless, Tanzania and Zambia have finally accepted a Chinese offer to construct the railroad, for they feel that construction cannot be delayed any longer. The railroad will take several years to complete, and will cost an estimated $320 million—the largest single Chinese assistance project anywhere in the world.

Although the prospect of an increased Chinese presence in the area has alarmed many of Tanzania's friends in the West, I think a more dispassionate view is in order. In my opinion, President Nyerere and his associates are fully capable of protecting themselves against improper political inroads by the Chinese or any other foreign power. And in hard-nosed geopolitical terms, the project is likely to absorb so much of China's limited resources for such efforts that Peking will have to reduce its activities elsewhere.

In the minds of most Africans, the cold war is not an issue. Development is an issue. So is peace. And so is freedom for all Africans.

Mr. President, there exists in Africa a real opportunity to create a climate very favorable to the West. We should recognize it as such, and act accordingly. The presence of a Chinese factory or a Soviet agricultural mission is not going to turn any nation in Africa against us. Nor is a much-publicized visit to Moscow by one or another African leader, or a tour of Africa by some prominent Chinese or Soviet figure, a sign of soaring Communist influence in the continent. Every contact does not constitute a conspiracy.

And, although the collectivist sentiments of some African leaders differ sharply from our individualist values, we must respect the principle that each society has the right to organize itself according to its own preferences.

We can prejudice our own case severely if we allow our preoccupation with the cold war to dominate our policies, or if we presume to chastise nations for accepting Communist aid. So long as these nations are diligent in protecting their independence, we should share their satisfaction that both East and West are prepared to aid their development. Our goal should properly be to help these nations marshal and focus all the resources they can obtain to speed their progress toward a healthy and prosperous society. For in such progress lies the best, indeed the only defense against discord and dictatorship in Africa. And in the course of that march toward progress, I have faith that the precious values of individual freedom will in fact prevail over the authoritarian alternatives arrayed against them.

CURRENT CRISIS IN AFRICA

If the disruption of cold war politics is not a prime danger in today's Africa, the continent has problems enough of its own. I would like to discuss briefly several of the critical areas which demand the most meticulous attention of American policymakers; the Nigerian civil war and its likely aftermath, conditions in the Republic of Guinea, the situation in the Congo (Kinshasa), the former Belgian Congo, and, most perplexing of all, the general question of the minority regimes in Southern Africa.

NIGERIAN CIVIL WAR

Both in area and population, Nigeria is one of the largest nations not only in Africa but in the world. In terms of natural resources and economic potential Nigeria is second only to the Republic of South Africa among the nations south of the Sahara. But in the 8 years since independence this country of approximately 55 million people has moved from a parliamentary government to a Federal republic, to a succession of military dic-

tatorships, and now to secession and civil war.

All of the various changes in government which preceded the outbreak of civil hostilities in May of 1967 were designed to accommodate one of the most difficult ethnic situations existing anywhere in the world. Nigeria is similar to most other African states in that the boundaries established by the colonial power include under one administrative roof literally hundreds of different tribes. But the borders established for Nigeria also included three distinct and reasonably well organized, ethnic groups: the Moslem, Hausa-Fulani peoples in the north; the Yorubas in the southwest; and the Ibos in the southeast. Overriding all their internal tribal distinctions and characteristics, each of these three ethnic groupings has a definite sense of "national" identity. What is more, their contacts with each other frequently have served to increase mutual suspicion and hostility.

Under the British, the Ibos spread throughout all of Nigeria where they became businessmen, administrators, teachers, and civil servants. They often alienated the local population by taking over many of the more desirable and influential positions in the colonial structure.

By the time of independence in 1960, animosity toward the Ibos was widespread, and the Ibos were driven to greater clannishness and nepotism to protect themselves. They continued to dominate the civil service, transportation, and communications, and a large share of the commerce and industry of the country, but they felt their position weakening. Growing efforts by northern-supported politicians to increase their power in the national government made the southern tribes extremely apprehensive that they would fall under the domination of the Northerners.

On January 15, 1966, Ibo officers in the Nigerian Army staged a coup and took over the government. Only 6 months later they were forced out of office and the present military government assumed control. Persecution and disorders followed; despite attempts by the Federal Military Government to achieve a peaceful solution to the country's internal problems, large numbers of Ibos suffered. This bitter experience bred deep fears of future reprisals against the minority, fears which seriously complicate the quest for peaceful reunification.

In May of 1967, Col. Yakubu Gowon, head of the federal government, announced the reorganization of Nigeria into 12 states, only one of which possessed a clear Ibo majority. The eastern region, where one-half of the population was Ibo, promptly seceded and proclaimed itself the independent nation of Biafra. A civil war ensued. The federal government requested that the United States sell arms to Nigeria; the United States refused, and the Nigerians bought their weapons from Britain and the Soviet Union.

This sequence of events is well known in Nigeria. Many Nigerians, particularly those in the army, know that many of the arms with which they are fighting to preserve the unity of their country, most notably the aircraft, were provided by the Soviet Union. They claim that many of the weapons captured from the other side are Western in origin. Most of them know of the U.S. refusal to sell arms to their government. A number are inclined to interpret that refusal in terms of some presumed neocolonialist plot. Some feel it stemmed from Western hostility to the idea of a united Nigeria.

Many Nigerians were understandably disappointed that the Americans, whom they consider their friends, declined to provide military equipment at a time of ultimate crisis for Nigeria. But I believe that the Nigerians should understand, as some of their leaders already do, the basis for the U.S. decision. The American refusal to sell sophisticated arms was in no way a sign of animosity toward Nigeria. It was fundamentally rooted in a deep concern to limit the violence in a civil conflict.

The U.S. Government justifiably concluded that every effort should be made to encourage an early political settlement between the central regime and the Ibo secessionists. It also concluded that the goal of nonviolent accommodation among the Nigerians would best be served if all the great powers abstained from arms shipments into the troubled area.

No one will ever be sure whether the failure of other producers of military hardware to exercise comparable restraint helped or hindered the restoration of peace. It is clear that the introduction of additional weaponry has substantially increased the capacity of both sides in the civil war to inflict large-scale bloodshed. On balance, I believe, and I hope that the Nigerians will someday fully agree, that the American decision was the correct one.

The true test of our friendship for the people of Nigeria will come in the aftermath of the present conflict. When the civil war ends, the United States should be prepared to offer substantial assistance in rebuilding the economic fabric of Nigeria.

Fortunately, Nigeria is a development emphasis country, so that even within the present assistance policy significant bilateral aid can still be given. But I would suggest that we ought to consider the possibility of a supplemental emergency assistance program to Nigeria as well.

There will be a massive problem of emergency relief once hostilities are concluded. The United States should be prepared to step in with food for peace, and to supplement the work of the Red Cross and various voluntary agencies with medical supplies and temporary shelters.

As a result of hostilities, a number of AID projects in the former eastern region have been suspended. These include not only educational facilities and programs, but also road construction, and agricultural station, and agricultural research and extension services. All of these programs should be resumed as soon as possible after the war.

Nigerian recovery will be a formidable task. Before the civil war erupted, the economy was growing at a rate of 5½ percent per year, and Nigeria was financing three-quarters of its development program with its own resources. But Nigeria has lost untold millions of dollars in products, equipment, revenue, and trade as a result of the war. The damage to private property alone is estimated at several hundred million. Nigeria's development plan has been temporarily suspended, and programs involving foreign assistance have been operating on a restrictive basis. No new projects have been started. In addition, an increasingly large portion of the Federal budget has been spent on war materials, and on the general costs of maintaining an army in the field. Nigeria will need massive inputs of capital, both public and private, to build its infrastructure, reestablish agricultural and industrial facilities, and resume its educational and technical programs. The agricultural sector will require particular attention, for agricultural production has not increased significantly, despite the fact that it accounts for three-fourths of the labor force and 60 percent of gross domestic and export earnings. And Nigeria will need trade with the West to enable it to regain the revenues it has lost.

Demobilization will also pose a problem. In 1 year's time, the size of Nigeria's army has grown from 8,000 to an estimated 70,000 men. In addition, there are probably close to 50,000 men under arms on the other side. Nigeria cannot afford to maintain an army of this size, nor does the Government want to do so. Thus, once hostilities are concluded, there will be a problem of integrating anywhere from 50,000 to 100,000 men back into the economy. The United States should be prepared to assist in this undertaking also by helping to support productive but labor-intensive aid projects such as roadbuilding and dam construction; and by lending assistance to provide advanced training for those qualified to accept it.

We all hope that the conflict will end shortly. This is the expectation in Lagos, an expectation which seems more plausible in light of recent indications that both sides are prepared to enter unconditional negotiations for a political settlement. I hope that prospects for talks, will not be clouded, however, by Tanzania's recent decision to recognize Biafran independence.

No issue in Africa is so urgent as the restoration of peace in Nigeria. The United States should be alert to any opportunity to serve that goal.

GUINEA

Some of the most delicate issues for U.S. policy in Africa have arisen in our relations with the West African nation of Guinea. Under the leadership of President Sékou Touré, Guinea became the only French colony to vote overwhelmingly—98 percent—against the Constitution of the Fifth Republic and for independence in a national referendum in 1958. French retaliation was swift and sure. All foreign assistance was promptly terminated. French technicians were withdrawn, and all movable equipment installed by the French, up to and including telephones, medical equipment, and all of the filing cabinets and records of the Guinean Government were taken back to France.

Guinea immediately asked the United States for assistance; for uniforms and arms for its military, for food for its people, for technical assistance. Primarily on the basis of our close ties with France, the United States refused. Only two countries responded at first to Guinea's plight: both Ghana and Liberia offered substantial loans to help Guinea through its initial difficulties. Several East European countries made prompt offers of technical aid and equipment; and what is more, agreed to buy Guinean products that France would no longer admit. The United States, too, provided some food for peace during fiscal year 1959, and extended a grant of $2.1 million the following year. By 1960 Guinea had withdrawn from the franc zone and was receiving much larger amounts of aid from the Soviet Union and East Europe. Fear began to grow that Guinea was going Communist, and U.S. assistance was cut back significantly.

When difficulties developed between the Guinean Government and the Soviet Union in 1962, the United States saw an opportunity to provide an alternative to continued reliance on East bloc assistance. As Soviet influence declined, the level of U.S. obligations rose steadily from $11.2 million in 1962 to $24.4 million in 1965, a substantial level of aid among the countries of Africa.

According to logic and to economics, Guinea should have been well on the road to development by 1965. But Guinea's economy was not developing. It was in fact declining. Per capita income was lower in 1965 than it was in 1958, and knowledgeable estimates conclude that it is even lower today.

Part of the difficulty must be attributed to President Touré's own policies. He was firmly committed to the concept of a Socialist economy, believing that in a new and underdeveloped nation only the government can accumulate sufficient funds to invest in large industrial and agricultural projects. But capital accumulation by the government must be matched by skilled personnel on the government payroll to manage the investments and to operate the projects. This Guinea lacked. The Government of Guinea took over all private industry in the country. It assumed control of the new projects built by foreign aid. It supplanted local merchants and traders with Government purchasing agencies run by civil servants. The result was at best, mismanagement; at worst, widespread corruption.

In 1966, the United States decided to abandon a predevelopmental strategy in Guinea and to retrench the AID program there. A number of AID projects were terminated during fiscal year 1967, leaving a total AID commitment in that country of only $1 million. In the coming year it is likely that the last remaining AID projects, a technical school in Conakry and the Samova/Mack truck factory, both which I visited, will also be phased out.

Mr. President, I believe it is a mistake to terminate U.S. aid to Guinea.

I found no evidence that Sékou Touré is pro-Communist or anti-West. He is a nationalist, in that flamboyant, unpredictable, and inspiring tradition of national heroes who, no matter how much they may aggravate other nations, are the only leaders capable of creating a sense of nationhood among their own diverse peoples.

Among other leaders in Africa President Touré is highly regarded for his determined efforts to forge national unity and to protect his nation's independence. He has also earned respect throughout the continent for his vocal and effective advocacy of Pan-Africanism.

Sékou Touré is still young. He has just been reelected president by a wide margin. He is extremely popular with his people and maintains close contact with local affairs. He is likely to remain an active political figure for many years.

I strongly believe that the United States should be willing to work with President Touré and to resume its bilateral assistance programs in Guinea.

CONGO (KINSHASA)

If the United States has tended to disengage from close relations with Guinea, it has been deeply involved in the continuing international efforts to assist the Congo (Kinshasa).

The Congo is the geographic and strategic heart of Sub-Saharan Africa. Though it has a population of only 15 million people, the country has a solid base upon which to build a health economy. At the time of independence, it was in fact the second most developed country in black Africa.

But the Congo is a war-torn country. Civil war erupted only 4 days after the Congolese received their independence from Belgium in 1960. For the next 5 years, the country was torn by a bloody and vicious conflict. Peace was not restored until the end of 1965, when Col. Joseph Mobutu staged a bloodless coup and named himself President for 5 years. Since then, despite sporadic uprising and mutinies in the eastern provinces, the government in Kinshasa has maintained reasonably effective control over the country.

The Congo has made notable political strides in the last 2 years. A constitution has been drafted, political parties are being formed, and an election is scheduled for later this year. But economically the country is still in critical condition. The war years caused considerable destruction to agriculture and transportations. Private investment fell off appreciably, and spiraling inflation added to the country's economic problems.

One of the first acts of the Mobutu government was to call in a team of economists from the International Monetary Fund to assess the damage and to develop a monetary reform and stabilization program. This program was inaugurated in June of 1967. The Congolese franc was devalued from floating rates of 150–180 to the dollar to a single rate of 500 to the dollar. Credit ceilings were imposed. Taxes were increased, and restrictions on imports were liberalized to reduce the activities of the black market. Finally, the government committed itself to generating a surplus of $20 to $24 million per year to finance essential public investment.

These stringent reforms had the full backing and financial support of both the International Monetary Fund and the United States. The IMF gave standby credits of $27 million to help bolster the Congo's currency. The United States extended a loan of $17 million, with the promise of a subsequent loan of $15 million.

The Congolese Government now wants to work with the World Bank to create an overall development plan. They intend to establish firm economic priorities, and to create a single national institution through which all external aid can be coordinated and channeled.

The Congo may be well on the way to becoming one of the most economically stable countries in all of Africa. In this endeavor it has, and deserves, our continuing support. But it should also serve as a lesson and an example in our dealings with other African states. Our relations with the Kinshasa Government are on a purely businesslike basis, and that is the way they, and we, want it to remain. Our aid is in the form of loans, which the Congolese Government is quite capable of repaying. Its external debt is only 3½ percent of its annual export capacity, and the country enjoys a strong balance of trade. The country is paid up in all its international obligations, including contributions to the newly established African Development Bank. With international assistance in planning and long-term loans, the Congo should be able to support a vigorous program of economic development. Prerequisite to that development, however, is the clear demonstration by the Congolese of their ability to organize themselves politically and to end the internal turmoil which has plagued their country. At the moment there is some reason to be sanguine about the Congo's embryonic political structure. The test, however, is a continuing one, and it will be decades before a firm sense of national identity can be forged to insure the long-term success of the Congo as a nation.

SOUTHERN AFRICA

As I have said, I believe there is some basis for optimism about likely trends in the Congo, Guinea, and Nigeria. I can find no such hopeful foundation for appraising the gravest crisis in Africa today, the festering racial tensions in southern Africa.

All five of the political divisions in the area, the Republic of South Africa, the rebel British colony of Southern Rhodesia, the former South African mandate of South-West Africa, and the two Portuguese colonies of Mozambique and Angola, are ruled in one form or another by white minority governments.

The history of each is a story in itself.

South Africa has followed a policy of segregation for generations, with the restrictions on the African majority becoming more severe in direct proportion to the achievement of independence in other parts of the continent and to the anticipated possibility of political and economic demands from within. Since 1948, with the adoption of a formal policy of apartheid, these restrictions have included the segregation of Africans into specifically designated areas, often far removed from places of employment; the requirement that Africans

carry passbooks indicating past and present employment, origin, residence, and record of past arrests; the refusal to permit African wives to live with their husbands in the cities on the grounds that there is no room for them in the crowded urban areas; restrictions on travel; and prohibition on political activity.

In 1965, in response to stepped-up demands or political representation and economic rights, and to increased activity by local guerrillas, the South African Government passed the so-called Terrorism Act. Under this act, since amended, it is a capital offense for an African to engage in any action which might be judged detrimental to the national well-being. This incredibly broad provision includes not only taking up arms against the state or participating in acts of sabotage, but participating in strikes, demonstrations, and political rallies, or any individual acts of defiance, such as resisting arrest. Persons charged under this act may be arrested without warrants and detained for indefinite periods of time with no possibility of release on bail and without, in some cases, the right to counsel or visits. Persons arrested under this act are not permitted to have the benefit of trial by jury. If found guilty they may receive the death penalty, but must be given a minimum 5-year sentence. Even if acquitted, they are still subject to rearraignment and retrial for alleged actions arising out of the original charge.

South West Africa became a trusteeship territory of South Africa under a League of Nations mandate. It is now, for all practical purposes, a colony of South Africa, despite a series of U.N. resolutions terminating the area's mandate status and contemplating establishment of an independent government.

South Africa's contempt for democratic principles is matched by the harsh practices of the breakaway regime in Southern Rhodesia, where British and U.N. sanctions have proven too mild and too easily circumvented to be effective.

And in Angola and Mozambique, where 360,000 Europeans dominate an African population of almost 12 million, conditions are even more brutal, for there the government is more arbitrary, and the African population receives less care and attention. African liberation groups and some 100,000 Portuguese troops have been engaged in armed conflict for several years.

Taken as a whole, there are 32 million non-whites in these five areas who are ruled by a white minority of 4.2 million. They have been suppressed for generations. They have been denied political and economic rights. They have been exploited, segregated, terrorized, and killed. Their best leaders, who dared to speak out against the governments, have paid for their ideals with their lives.

I cannot emphasize enough the critical nature of conditions in southern Africa today.

There are significant European populations in these five territories, to be sure. For many of these Europeans, Africa is the only home they have ever known. They do not want to leave, yet they are afraid to stay if majority rule ever becomes a reality. In their fear they ignore the commendable experiences of Zambia and Kenya, and are instead seeking strength in military suppression. It will not work.

The leaders of the African liberation movements have come increasingly to believe that they will achieve their objectives only by violence. When one considers that they are denied the opportunity for peaceful demonstrations, rallies and petitions, that political organization is forbidden, that 99 percent of the population is not even allowed to vote in most of these areas, their desperation is understandable.

With positions hardening on both sides, the conflict seems destined to grow, and to involve not only the peoples of southern Africa, but neighboring African states and an increasing number of nations throughout the world.

Already the lines are being drawn. Despite official government denials, rebel leaders are apparently using both Zambia and Tanzania as staging areas. Most of the freedom movements have headquarters either in Lusaka, in Dar-es-Salaam, or both. With the outbreak of wider conflict in southern Africa, Zambia and Tanzania would inevitably be drawn into the war, to the great detriment of their own development. The superior military capabilities commanded by the minority regimes would probably combine, and would further compound the bloodshed and devastation.

The other independent nations of Africa have cast their lot with the freedom fighters. At the September meeting of the Organization for African Unity in Kinshasa, the 38 members of the OAU voted to give $2 million of their $3.1 million budget to the various liberation groups.

Although some of the Angolan rebels are employing Western arms, much of the weaponry and other support for the liberation organizations seems to come from Communist sources.

I discussed this matter with several of the leaders of the freedom movements, and their replies were virtually identical: "If we have to use Communist aid to free ourselves, we would be foolish not to use it. Where else can we get it?" These leaders do not expect that they or their people will turn to communism as a way of life. They do not use the rhetoric of communism; they do not view the impending conflict in Marxist class terms. But they are using Communist weapons, and have Communist advisers. Some of their officers are being trained in Communist countries, and many of their students are studying there. In the long run, while southern Africa may not go Communist, it may turn out to be very pro-Communist.

In these circumstances, with a long and bitter struggle looming ahead, the choices for American policy are as difficult as they are urgent. To be sure, we have often expressed our ideological position and our hostility to both colonialism and the antidemocratic systems in southern Africa.

The United States has long made clear its opposition to the apartheid policies of South Africa. This Government has joined in economic sanctions against Southern Rhodesia. It supported the creation of an ad hoc U.N. committee to study the problem of South-West Africa. It deplored the trial in Pretoria of the South-West African freedom fighters. And the United States has tried to exact guarantees from its NATO ally, Portugal, that military equipment provided by the United States will not be used outside the NATO area.

But in African eyes, the record of what we have not done speaks much more clearly. We have taken no purposeful action to discourage American private investment in South Africa, which is now in excess of $600 million and serves as a vital pillar of support for that unpopular regime. In addition, we have placed no restrictions on U.S. trade with South Africa, other than a prohibition against the sale of military equipment. Trade with that country has now risen to $650 million a year.

The United States regards Southern Rhodesia as a "British colony in rebellion," yet because of the limited nature of our investments and trade, our economic sanctions have had no impact at all; and we have done too little to persuade the British to increase pressure on the rebel government.

America's allies sell arms and sophisticated military equipment outright to the South African Government, and the U.S. Government has made little effort to persuade them to do otherwise.

Portugal receives considerable military assistance from the United States, and the African freedom fighters insist that American weapons are killing their people in Angola and Mozambique.

I believe that the time has come to wrench ourselves from this pattern of implied complicity with the southern African regimes. I do not fancy that maximum American pressure will bring early and easy political change to the area. I realize that firmer action on our part may increase tensions with our European allies. But I believe we must remove from the United States any hint of sympathy for the minority governments of southern Africa.

Conditions in southern Africa confront the United States and other members of the international community with the most difficult issues of international law and morality. No one who respects as I do the rule of law among men and among nations will lightly transcend the principle that the domestic affairs of sovereign states are not an appropriate subject for international consideration. The United States and other Western nations have been understandably reluctant to take stringent action against southern Africa precisely because of their respect for this standard.

But the facts are that the abridgement of human liberty in this area is so overwhelming that it is necessarily the concern of all nations; the danger to international peace is so great that it must be dealt with by the larger community of nations; and, with the exception of South Africa itself, none of the territories involved is itself a sovereign state which can properly invoke the privileged claim that its domestic affairs are immune from international review. What

we face in southern Africa is a last, terrible harvest of practices which have won the general condemnation of mankind.

The trusteeship provisions of the Charter of the United Nations, agreed to by all of its 120 members, stand in decisive testimony that there is a definite international responsibility for the dependent peoples of this planet. The United States and the world community must take every reasonable step to fulfill that obligation.

This will require us to take a number of costly actions now in order to avoid more costly actions in the future.

I believe we must make clear to South Africa that, lacking evidence of that Government's willingness to move toward social justice and equality for the African population it controls, the United States will begin to disengage from its burgeoning economic ties to that country.

I believe we must make clear to Portugal that, lacking a credible commitment to self-determination in Angola and Mozambique, the United States must and will begin to reduce its military relations with the Lisbon Government, even at the sacrifice of the military facilities which we have been permitted to develop on Portuguese territory.

I believe we must do all in our power to end the intolerable situation in Southern Rhodesia, and that includes an absolute ban on U.S. trade with the territory. We must surely support the belated British proposal in the United Nations Security Council for comprehensive and mandatory economic sanctions against Southern Rhodesia.

These steps will not suffice for the purposes we seek, but they will represent a beginning.

At stake is our moral and political credit with all of Africa. I believe that credit is more precious than any short-term advantages we might protect by maintaining cordial relations with the minority regimes in southern Africa. And if there is any hope for a gradual and peaceful transition to true self-government in that troubled region. I believe it will be enhanced by a more decisive and more vocal posture on the part of the United States.

Mr. President, in southern Africa we must stand by our ideals. The cause of peace, freedom and morality is at stake.

CONCLUSION

The problems confronting the peoples of Africa are as heterogeneous as the people themselves. The policy questions facing the United States in its relations with Africa are comparably varied. I have ranged rather widely over some of the diverse issues which now loom before us. I would like to conclude by recapitulating briefly some of the principles which, in my opinion, should guide U.S. policy in Africa.

First. While there are good reasons for the United States to support various regional efforts, there are also good reasons for this country to maintain ample bilateral relations, both economic and political, with many African states. Trade, as well as aid, ought to be expanded.

Second. We should avoid any obsessive concern with the risks of the cold war in Africa. To be sure, the struggle for influence still exists. But it is contained both by the growing maturity of the great powers and their increased desire to limit the hazards of direct confrontation, and by the strongly independent spirit of the Africans themselves. We should respect this independence, and the policy of nonalinement which it has engendered. The African nations are friendly to the United States, but as Uganda's President Obote observed to me, "One cannot say that, because someone is your friend, that friend's enemy is your enemy."

Third. We should make certain that our relations with the majority of African states are not clouded by the slightest suspicion of special interest in or sympathy for the minority regimes in southern Africa. If we are to enjoy beneficial relations with Africa as a whole, it is imperative that we be willing to sacrifice the ephemeral advantages of good relations with South Africa, Southern Rhodesia, and Portugal, so long as they persist in oppressing millions of Africans. Only by standing with the just demands of the African majority, only by fidelity to our own principles, will be able to lay a sturdy foundation for our future relations with the continent at large.

Fourth. We should judge African political development according to the distinctive situation of the Africans themselves, not by our standards. A country which is 90-percent illiterate cannot be expected to operate an elaborate two-party system with the range of choices available to a more advanced nation. In some cases, one-party government may be the lesser evil in the initial stages of national evolution. We should neither condone nor condemn such regimes in general, but should measure them individually by their responsiveness to the perceived needs of their people and by the efficacy of their attempts to build a more democratic system in the shortest possible time. Where the alternatives are chaotic tribalism or fierce dictatorship, a humane central government based on a single party with wide popular participation is hardly to be despised.

Fifth. We must put issues ahead of personalities in our relations with African countries. We should gear our own decisions to our mutual needs and interests, not to the individual characteristics of particular leaders.

In building a sound basis for future relations, it is especially important that Africans and Americans come to know each other better. In particular, I hope that other Members of Congress will have occasion to visit Africa, to become acquainted personally with the peoples and governments of that continent, and to assess for themselves the vital business now underway there. It is of particular concern to me that in recent years, of all the funds spent on congressional travel, less than 2 percent was expended on travel to Africa. Similarly, I hope that increasing numbers of African students, officials, businessmen, and others will have the opportunity to spend time in the United States. A closer association of this character can be mutually rewarding, both in terms of human understanding and in terms of joint accomplishment.

Nothing the United States does will be sufficient to assure the success of African development; as always, the outcome hinges primarily on the efforts of Africans themselves. But it is no small accomplishment to be an ally in the struggle for the freedom and welfare of over 250 million people. That role America can play in Africa, together with other developed nations. That role America should play, to the limit of its capacity.

As model and midwife, the United States can help speed the birth of democracy and prosperity in that mighty continent. The opportunity and the need are there. Let us seize the one to serve the other.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. COOPER. I was interested in the Senator's comments about President Sekou Touré. Is the Senator able to make any comments about his country's relationship with Ghana and any comments about Nkrumah? I noted in the papers today a news article about the release of certain Ghanaians who had been imprisoned to return to Ghana, and also the comments about Nkrumah.

Mr. BROOKE. While I was in Africa I visited Guinea, as I have already said. I was the guest of President Sekou Touré at a conference. He told me at that time, as is well known, that Nkrumah was his house guest. At one time he had been referred to as copresident of Guinea. I did not see Nkrumah while I was in Guinea. He is relatively well protected and is mostly confined—though I do not say that he is stringently confined—to his quarters as a guest of President Touré. He apparently has no activity in the Guinean Government, for I attended a speech of President Touré, at which ambassadors of all other countries were present, and Nkrumah was not present at that time.

When I went to Ghana, I also had the opportunity to talk with General Joseph Ankrah, who is, of course, the leader of the present government. General Ankrah told me at that time they were prepared to release people who had been held in prison, who had been friendly to Nhrumah. He said that the country was progressing, and there had been no trouble since an abortive mini-coup some time ago. They did not fear any uprising in Ghana through the efforts or influence of Nkrumah.

There is still some bitterness in Ghana, paricularly on the part of the government, about Nkrumah. I was shown certain investments which had not been made wisely under Nkrumah's administration. But still, in Africa, Nkrumah seemingly was respected by African leaders for his pan-Africanism.

Several of these leaders made a distinction, saying, "There are two Nkrumahs. One is the Nkrumah of Ghana, who may or may not have been wrong in his leadership of Ghana. The other is Nkrumah, the African." They respect the latter and give no evidence of their opinion so far as the former is concerned.

But I will treat some of this in my further remarks.

Mr. COOPER. I believe it was reported several months ago that Sekou Touré contemplated a military movement against Ghana. I assume the Senator heard no discussion of that kind?

Mr. BROOKE. I did hear allegations made to that effect. President Touré denied that he ever entertained the idea of moving against Ghana. General Ankrah evidenced no fear that any such movement would be underway. Practically speaking, Guinea is encountering such economic difficulties itself that it has no army of any standing or size to use against a neighbor. It would be impractical, if not impossible, for Guinea to move against Ghana.

Mr. COOPER. My questions on this particular issue arose from reading certain articles previously, and my interest was renewed this morning in reading a news story about Guinea, Ghana, Touré, and Nkrumah.

While I am speaking, let me say that we owe the Senator from Massachusetts a great debt for bringing us his informative report. It gives us a clearer idea of the problem of these countries, which we need very much. We are very indebted to the Senator from Massachusetts.

Mr. BROOKE. I thank the distinguished Senator from Kentucky for his generous words, and for entering into this colloquy with me.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. BROOKE. I yield to the distinguished Senator from Kansas.

Mr. PEARSON. Mr. President, I congratulate the distinguished Senator from Massachusetts for the product of his labors: a long and arduous trip and visit through Africa, his work and study, and now his report, which I am sure will provide a new insight to the entire Senate. I believe it is a most excellent political and economic report on conditions on that continent.

I was quite interested in his discussion of the independence and neutrality of so many of the African nations, which does not necessarily represent a deterrent to this country; for if we recall our own early years in this Republic, our position was very much the same.

I also was interested in his comments on aid and his favoring multilateral treatment. I must say that I favor, I believe, if I correctly understand the Senator's comments, on a regional basis, more than he would provide.

In September of last year, I had the opportunity to visit three of the East African nations and to study their coordinated efforts, to which the Senator has referred, and to note, also, the new development of the Union of Senegal African States. I would hope that aid on a regional basis, not in prestige products, but in the fundamental elements that give a nation growth—in transportation, in communication, and in education—would be part of our policy in aiding these countries that are emerging now, for they emerge really as regions. Their basic laws are the result of colonial days.

I wish to say once again that I congratulate the Senator. I hope his speech today will have the attention it deserves by every Member of this body.

Mr. BROOKE. I thank the distinguished Senator from Kansas for his kind and generous remarks. I know of his visits to Africa, and I believe he has made a contribution to my remarks today by including his opinions, particularly pertaining to regional and bilateral aid in Africa.

Mr. President, I ask unanimous consent that I may proceed for 15 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I yield to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I should like to say, first, how grateful I am for the usual critical analysis made of a very complex problem by the distinguished Senator from Massachusetts. He has added to my understanding of this area.

I should like to ask whether the Senator is satisfied that U.S. military equipment is not used by Portugal in Angola and Mozambique.

Mr. BROOKE. I am not satisfied that it is not used. There were allegations that NATO military equipment and weaponry were being used by Portugal in Angola and in Mozambique. I did not go to Mozambique, nor did I go to Angola. I was unable to verify those allegations.

However, rebel leaders from both Mozambique and Angola with whom I spoke—and certainly the Senator should know the source of my information—were unanimous in saying that the weapons being used in their territories were of Western origin. They said these arms came primarily from Portugal, and were weapons that the United States had sent for NATO purposes.

Mr. PERCY. One further question. I am sorry I was not in the Chamber to hear all the remarks made by the Senator from Massachusetts. However, on my own visits to Africa, I have tried to determine the degree of importance that the activities of the U.S. Government has there. I have been impressed by the fine technical asistance offered by the State of Israel and the excellence of their programs, even though modest in size.

Can the Senator comment on the degree of influence being exerted by the Communist Chinese Government and by the Soviet Union in Africa, and say whether, with our own preoccupation in Southeast Asia, our lack of attention to Africa puts us in jeopardy with respect to those other two powers?

Mr. BROOKE. I know that the distinguished Senator from Illinois was not able to be present during the long remarks I made this morning, but I did treat this subject rather extensively. I pointed out that considerable assistance is being given both by the Soviet bloc and by the Communist Chinese Government to African nations. I further found—and this is something of grave importance to the U.S. Government—that in most instances the African countries had first approached Western nations, including the United States, for assistance, prior to approaching the Soviet Union, or the Communist Chinese.

This was done by Guinea, as I pointed out, after the French withdrew and took everything out of that country. President Sekou Touré came to the United States, and our Government refused to give him assistance at that time because of our close ties to France. This was done in Nigeria, when the Nigerian Government sought assistance from our country. I think we were correct in that instance, particularly in not providing additional weaponry, because we did not want to enlarge the conflict.

Again, in the case of Tanzania and Zambia, which are contemplating the building of a joint railroad plus the repair of a highway, Tanzania came to the United States for assistance but the United States refused because it did not feel the railroad was feasible. It was then that Tanzania went to the Communist Chinese, who are now building the railroad. And so it goes. There is some Soviet influence and Communist Chinese influence in Africa today, but I want to sum up by saying I do not feel that merely because a nation is the recipient of Soviet assistance or Chinese assistance that that necessarily means that nation is pro-Communist or anti-West or anti-American. It is not true. I would refer to a statement by President Kaunda of Zambia who said that you just do not take on the enemies of a nation just because you are that nation's friend.

Mr. PERCY. I have one last question. It has been my growing belief that this Nation should try to work away from bilateral aid to countries in many instances and work toward multilateral aid, and instead of a country-to-country basis, to work through such international agencies as the Special Fund of the United Nations or the World Bank.

I understand the soft loan fund of the World Bank will be nearly exhausted in April or May of this year; and that these soft loans made to developing nations by 18 countries will be necessary in many developing nations to undertake financing on long-term projects. These soft loans are loans and not grants. For every 40 cents we put in out of a dollar, 60 cents is put in by other countries, so we are matching one and one-half to one. The fund is supervised by 17 or 18 of the wealthier, more developed nations of the world.

Is it the impression of the Senator, after visiting Africa, that it would be well for the U.S. Congress to give serious consideration to help replenish international development funds of the World Bank rather than have them exhausted and only have the International Bank for making hard loans that must be paid back immediately, rather than long-term loans, and to a degree subsidize interest costs, but still have the loans repayable rather than as gifts?

Mr. BROOKE. I agree with the Senator's conclusion and I so indicated in my prepared text.

However, I did point out that even multilateral loans are in the future, and although we have adopted a policy of getting away from bilateral assistance,

nevertheless I did find that most of these countries, even though they are looking toward regional assistance and cooperation, are still at the stage of their development where they still need bilateral assistance. I do not believe that these forms of assistance have to be mutually exclusive. I believe we can have both, as the Senator from Kansas pointed out, and not just on the hydroelectric projects and matters of that nature. I believe this is the thinking of Africans themselves.

I talked with two vice presidents of the African Development Bank who are thinking in terms of regionalism. I agree with the conclusion of the distinguished junior Senator from Illinois that we can assist these African nations through the World Bank and the other development banks. The objective of African nations is to help themselves; our objective should be help them help themselves. We can best do this in the manner which the Senator suggested. I thank the Senator for his contribution.

Mr. COOPER. Mr. President (Mr. McINTYRE in the chair), will the Senator yield?

Mr. BROOKE. I am glad to yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, the Senator from Illinois raised a very crucial question, and it is a question to which the Senate and the House of Representatives will have to address itself this year. As the Senator knows, the foreign aid bill is now before the Committee on Foreign Relations and its provisions limits aid, including technical aid to 55 countries. It would exclude some countries in Africa that formerly received aid. Instead of 35 countries only 21 would receive aid. There is a very small amount recommended for Africa—just $179 million. About 80 percent of the entire funds recommended in the bill would be made available to 15 countries.

I believe that the bill will be cut, but I would like to see part of the relatively large sums made available for a few countries be shifted to African countries. I think we have an opportunity to aid Africa.

The Senator from Illinois was correct when he said that the "soft-loan window" of the World Bank is exhausted; $480 million has been requested of the U.S. Government in installments of 3 years. I do not know whether that amount will be made available or not. It presents problems with respect to our balance of payments, but it has been suggested that our contribution would only be available for purchase in this country, so as not to adversely affect our payments problem.

I would agree with the Senator—and I have held this position for many, many years—it is a position that grows out of my experience in India. I believe that aid by itself will not cause the recipient nation to be alined with a particular country or against a particular country. If that were true, practically every country in the world would be alined with the United States. We will have to believe that a nation desires to be independent, and if it wants to be nonalined with the United States, we hope that same independence will cause it to resist alinement with Communist countries.

I am informed that the Communist Chinese are making a determined effort in many countries in Africa to establish Communist parties and revolutionary-guerrilla type activities such as those now apparent—into Zambia, Tanzania, and Rhodesia.

I would like the Senator to give us his impression of the attitude of the people of these countries toward our country, because, as the Senator said, we do not intervene to support nationalist movements as in Rhodesia, South-West Africa, the Republic of South Africa. Also, what is their viewpoint about what is happening in America? I wonder whether the Senator discussed these issues in his visits. Particularly our internal problems. I should like to have the Senator's views.

Mr. BROOKE. The two questions I was asked most, not only by members of the various governments in Africa, but also by the people themselves to whom I spoke—notably members of student bodies in universities there—concerned the issue of civil rights in this country and the Vietnam war. Those were the two most important issues.

Naturally, our treatment of the Negro minority in this country has not endeared us to Africans living on the continent of Africa. They know that we have stated in our Constitution all men are created equal, yet they hear much about the separation of the races, the denial of equal opportunity and the quality of education. They read about riots in our urban centers, demonstrations, and the like. They are knowledgeable about these problems of America. They are very much concerned about them. They wonder how we can be so inconsistent, how our promises and their fulfillment are so different. Those are things which, of course, have hurt us in Africa. But they should not hurt us because, as I said, one of our chief political assets should be the large population of African descent in this country.

Of course, Vietnam is an issue which has been well discussed and is well known all over the world. I frankly found differences of opinion in Africa about the problem at that time which was just prior to the cessation of the bombing in parts of the north and the move toward a negotiated peace. Most of the young students to whom I spoke were similar in their outlook to many students in this country regarding cessation of the bombing, and general opposition to the war in Vietnam.

I cannot stress enough that Africa is undergoing great changes. Africa is moving on from its first goal of independence to its second goal of economic and political stability. As such, Africa is going through growing pains but is, I believe, more attuned to the West and to the United States.

Many people in Africa have great respect for Abraham Lincoln and past leaders of the U.S. Government. In the countries where I did find Chinese Communists or Soviet assistance being given—for example, in one country where there was a multimillion-dollar auditorium, with fountains playing all around it, which the Chinese had designed and constructed—I did not find that because they had constructed that auditorium, the people of that country were any more pro-Chinese, or any more anti-American, than any other country I visited.

We must be mature enough to understand that the Soviet bloc and the Communist Chinese are going to spend money. They are spending money all over the world trying to use their influence. We are doing likewise. Even though I will admit that many African leaders are collectivists, I believe that after economic development is achieved, there will be more individualist thinking on the part of leaders of African countries. And I think we have an excellent opportunity to aid the trend toward respect for individual values.

Mr. COOPER. I should like to ask the Senator from Massachusetts one more question. The Senator has spoken of the attitude of Africans toward American internal troubles. I should like to ask the Senator: Is there a realization that from a governmental point of view, that our Government, unlike the South African Government, or that of Rhodesia, does not subscribe to a policy of discrimination and that successive American administrations and the leadership in this country, politically, in the business world, among the churches, the labor movement and others are doing everything they can to move toward achieving the goal of nondiscrimination?

Mr. BROOKE. To a degree, I believe that is true. One of the things I found somewhat alarming was that African leaders, in far too many instances, as well as the African people generally, in reading the newspapers, watching television, and listening to the radio are apt to give more credence to what is written or said by one individual in this country. Let us say that one Member of Congress makes a speech which could be considered racist It will get wide play in Africa. As a result, many Africans will believe that that is the American Government speaking as a whole.

I tried my best to point out that such statements were the opinion of one individual only and not the American Government speaking, that under our system of government anyone can stand up and say anything, presumably, he chooses to say, and that Africans should look to the actions of the American Government rather than to the words of one individual.

But these views are common all over the world, including Asia. They hear one person speaking, and they listen to him and credit our entire system of government for those remarks.

Generally speaking, the more educated Africans do understand what our Government has done and what it has not done, as well as the difference between the Government's role and individual's role in speaking in America.

Mr. BAKER. Mr. President, will the Senator from Massachusetts yield?

Mr. BROOKE. I yield.

Mr. BAKER. I commend the junior Senator from Massachusetts on his presentation, which is characteristically thorough and characteristically full of sensitive insight.

I am intrigued with the colloquy between the distinguished senior Senator

from Kentucky [Mr. COOPER], who was once this country's Ambassador to India, and the remarks of the Senator from Kansas, with respect to the general nature of our foreign assistance.

I would be particularly happy to see an adaptation of a plan, which this body has approved in principle, examined for its potential in other regions and areas of the world, including Africa. I speak now of the so-called Eisenhower plan for the utilization of nuclear energy to produce new wealth and new resources so that many of the developing nations in Africa, Asia, the Middle East, and elsewhere, can undertake a greater share in the formulation of their own economic destinies without the unilateral urging or direction of this or any nation. I feel that the central theme, as found in the presentation by the junior Senator from Massachusetts, the senior Senator from Kentucky, and the Senator from Kansas, is that we cannot purchase the good will of any nation; that America has a moral obligation and has a political obligation to use its resources to permit others to help themselves, rather than to permit the resources of America to be dedicated to the short-term purposes of any regime, or any people, or any government.

Mr. BROOKE. Mr. President, I ask unanimous consent for 5 additional minutes.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—and I shall not object—I merely want to call attention to the fact that the Senator has now been speaking for 2½ hours. He has been making a fine speech, but I hope there will not be many more requests for extensions of time.

Mr. BAKER. Mr. President, I assure the distinguished Senator from Massachusetts and the distinguished majority whip that my remarks will not extend for more than a moment or two, if I may have 2 minutes on my application, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, to continue, I think the perils of our time, whether in Africa, as outlined by the Senator from Massachusetts, or in the Mideast, which is so volatile and so potentially dangerous, or Asia or Southeast Asia, as touched upon by the Senator from Kentucky, are such that the Nation must face up to the realization that the old techniques of bilateral aid by itself will not suffice in this era of growing nationalism; that the national dignity of countries, whether they are emerging, growing countries in Africa or elsewhere, demands a high degree of respect which they can have only if they are able to avail themselves of their available resources, rather than on the basis of a simple handout alone from this country, or Red China, or Russia, or otherwise.

So I hope the speech which the able Senator from Massachusetts has so eloquently made is heeded by this Government and that it will find new ways and techniques to use the resources of this country to foster the national ambitions and economic integrity of growing nations, without putting America in the posture of the grantor of resources. Such a direct grant of resources is so often resented simply because it is suspect as an extension of American policy. I think the unity of our foreign policy can apply in the Mideast, Asia, Africa, and throughout the world on that basis. I think the time is short during which we may face up to the fact that the way we did it 20 years ago will not necessarily serve to do it now and for the immediate future.

Mr. BROOKE. I thank the distinguished junior Senator from Tennessee for his contribution, and the distinguished senior Senator from Kentucky [Mr. COOPER] for his contribution.

Mr. President, I yield the floor.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I want to compliment the distinguished junior Senator from Massachusetts. He has made a very useful and a very helpful speech, and I think it will contribute much to the knowledge of those who read it. I want to congratulate him for the time that he has spent in studying the matters about which he has spoken and to congratulate him on the preparation and delivery of a very thoughtful statement.

Mr. BROOKE. Mr. President, I certainly thank the distinguished Senator from West Virginia for his very generous remarks.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the transaction of routine morning business.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE FIRST QUADRENNIAL REVIEW OF MILITARY COMPENSATION

A letter from the Secretary of Defense, transmitting, pursuant to law, on an interim basis, volume I of the report of the First Quadrennial Review of Military Compensation (with an accompanying report); to the Committee on Armed Services.

INTERNATIONAL COFFEE AGREEMENT, 1968

A letter from the Secretary of State, transmitting a draft of proposed legislation to carry out the obligations of the United States under the International Coffee Agreement, 1968, signed at New York on March 21, 1968, and for other purposes (with an accompanying paper); to the Committee on Finance.

REPORT OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

A letter from the Chairman, Washington Metropolitan Area Transit Authority, transmitting, pursuant to law, the first annual report of the Authority for the calendar year 1967, and a regional rapid rail transit plan and program adopted March 1, 1968 (with an accompanying report and plan); to the Committee on the Judiciary.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third- and sixth-preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

YELLOWSTONE NATIONAL PARK CENTENNIAL

A letter from the Deputy Assistant Secretary of the Interior, transmitting a draft of proposed legislation to commemorate the 100th anniversary of the establishment of Yellowstone National Park by providing for the national park centennial, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

PROPOSED AMENDMENT OF POSTAL EMBEZZLEMENT STATUTE

A letter from the Postmaster General, transmitting a draft of proposed legislation to repeal section 1727 of title 18, United States Code, so as to permit prosecution of postal employees for failure to remit postage due collections, under the postal embezzlement statute, section 1711 of title 18, United States Code (with an accompanying paper); to the Committee on the Judiciary.

ADDITIONAL CONFEREE—H.R. 15399

Mr. HOLLAND. Mr. President, I ask unanimous consent that the Senator from Nebraska [Mr. HRUSKA] be appointed as an additional conferee on the part of the Senate on H.R. 15399, the urgent supplemental appropriation bill of 1968.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLAND. In explanation, the original conferee, the distinguished Senator from Maine [Mrs. SMITH], was unable to serve. The Republican ranking member on the committee has designated the Senator from Nebraska [Mr. HRUSKA] to serve in this capacity.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. 2914. A bill to authorize the further amendment of the Peace Corps Act (Rept. No. 1095).

By Mr. MORSE, from the Committee on Labor and Public Welfare, without amendment:

H.R. 13176. An act to amend the acts of February 1, 1826, and February 20, 1833, to authorize the State of Ohio to use the proceeds from the sale of certain lands for educational purposes (Rept. No. 1096).

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967—REPORT OF A COMMITTEE—ADDITIONAL, MINORITY, AND INDIVIDUAL VIEWS (S. REPT. NO. 1097)—RESOLUTION

Mr. McCLELLAN. Mr. President, from the Committee on the Judiciary, I report favorably, with an amendment, the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness,

fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes, and I submit a report thereon. I ask unanimous consent that the report be printed, together with the additional views of Senators TYDINGS, KENNEDY of Massachusetts, SMATHERS, and FONG, and the minority and individual views of Senators BAYH, SCOTT, EASTLAND, THURMOND, DIRKSEN, and HRUSKA.

The PRESIDING OFFICER. The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Arkansas.

Mr. MCCLELLAN. Mr. President, I submit a resolution (S. Res. 283) and ask for its immediate consideration.

The resolution requests an additional 6,000 copies of the report to the Senate to accompany S. 917, the Safe Streets and Crime Control Act.

I have discussed the request with the chairman of the Committee on Rules and Administration [Mr. JORDAN of North Carolina], and the ranking minority member, the Senator from Nebraska [Mr. CURTIS]. Both have given their approval to this procedure.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

Resolved, That there be printed for the use of the Committee on the Judiciary 6,000 additional copies of its report to the Senate to accompany S. 917, the Safe Streets and Crime Control Act.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

DEVELOPMENTS IN AGING, 1967—REPORT OF SPECIAL COMMITTEE ON AGING (S. REPT. 1098)

Mr. WILLIAMS of New Jersey. Mr. President, pursuant to Senate Resolution 20, adopted February 17, 1967, I submit a report from the Special Committee on Aging entitled "Developments in Aging, 1967."

As the report states:

> Challenges related to aging in our Nation were expressed in 1967 both in declarations of intent and by concrete actions. A year which began with President Johnson's message on older Americans—the second such message issued by a President of the United States—ended with the passage of the social security amendments that provided the largest cash benefits ever granted at one time. Federal agencies also demonstrated ingenuity and determination in administering old and new programs. Finally, the Senate Special Committee on Aging and its subcommittees began or continued studies clearly indicating that new problems and new opportunities arise as the population of aging and aged Americans increases every year.

Considerable attention is given to the question of inadequate income, which is described as "now more than ever the major problem faced by a majority of Americans living in retirement." The report notes that a new Commission on Income Maintenance has been established, but points out that the Commission has been created primarily to deal with welfare reform. The committee report recommends that "the executive branch consider the ultimate establishment of an Institute on Retirement Income closely patterned after an institute announced by President Johnson in 1967 to deal with urban problems. Such an institute would be geared for problem solving as well as sustained study."

In addition, the report gives strong support for legislation calling for a White House Conference on Aging in 1970. I am happy to note that Senate Joint Resolution 117—which proposes such a conference—received favorable consideration from the Senate Committee on Labor and Public Welfare last Thursday.

To summarize the wide range of conclusions offered in the report issued today, I offer the following:

Health service costs: The committee concludes that concern over rising medical costs will direct public attention to fundamental health care organizational deficiencies of special importance to the elderly. Medicare and medicaid are raising some levels of health care and providing much-needed financing of some costs to ill, elderly Americans. Essential as the two programs are, however, they stand in need of changes outlined in the report. The committee notes that the elderly in some urban centers face what one city health administrator described as a "breakdown of family doctoring," and offers interim recommendations intended to encourage development of new forms of service. The report also calls for a greater national commitment to preventive health care, including screening for disease before illness can take hold.

An emerging "retirement revolution": As more Americans retire earlier and live longer, they are contibuting to a "retirement revolution of such magnitude and significance that it deserves national attention and probably new directions in national policy." The committee calls for passage of a bill requiring preretirement training in Federal agencies. It also asks for experimentation by the Administration on Aging in establshing new kinds of work-life patterns including phased retirement plans and new kinds of part-time work. Educational television is described as having great potential usefulness to the retirement and preretirement community.

Employment opportunities: Anticipating that the Age Discrimination in Employment Act of 1967 will "speed other changes necessary for full and effective use of older workers," the committee also welcomes the establishment by the Department of Labor of a major pilot program intended to fulfill several objectives of a proposed older Americans community service program.

Housing and a livable environment: The rent supplement program "should be extended to serve additional numbers of Americans who, in any of several ways, stand in special need of its assistance." In addition, the model cities program should pay sufficient heed to the elderly and "their unique problems and special needs—as well as the contributions they can make to the citizen participation aspects of individual projects."

Long-term care: The report commends legislation enacted last year to raise standards in nursing homes, but also observes:

> Meaningful and comprehensive progress will not be achieved until the resources of the total health community are utilized to provide the quality and degree of care desired for the elderly in a truly comprehensive spectrum of services.

Role of Administration on Aging: Created by the Older Americans Act of 1965, the AOA was absorbed by a new agency in a reorganization plan adopted by the Department of Health, Education, and Welfare in August. Today's Senate committee report says that the reorganization raises serious questions about the possible downgrading of the AOA.

War on poverty and the elderly: The report asks for "full implementation of 1967 amendments that directed establishment of more adequate programs on behalf of the elderly by the Office of Economic Opportunity."

Social services: Project FIND, an outreach program for the elderly poor, has already demonstrated that a great need exists for additional FIND-type projects. The report also discusses long-range needs likely "in the face of foreseeable increased demands for service."

Consumer interests: The report describes new educational programs begun by Federal agencies in 1967 to help older Americans get the most for their dollars in today's complex marketplace. The report also comments:

> There is much room for experimentation and discussion about the design of apartments and fixtures used in federally assisted housing accommodations for the elderly. The receptive attitude at the Department of Housing and Urban Development to suggestions already received leads to the conclusion that further exploration will be productive.

I would also like to thank the subcommittee chairmen for their productive work during the year: FRANK E. MOSS, chairman, Housing for the Elderly and Long-Term Care; JENNINGS RANDOLPH, chairman, Employment and Retirement Incomes; EDWARD M. KENNEDY, chairman, Federal, State, and Community Services; GEORGE A. SMATHERS, chairman, Health of the Elderly; WALTER F. MONDALE, chairman, Retirement and the Individual.

Finally, some mention should be made of the excellent and very helpful reports made by Federal Departments and Agencies at the request of the committee. The reports are reproduced in the appendix to the report.

Mr. President, I ask unanimous consent that the report be printed, together with minority views.

The PRESIDING OFFICER. The report will be received; and, without objection, the report will be printed, as requested by the Senator from New Jersey.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session,

The following favorable report of a committee was submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without reservation:

Executive P, 90th Congress, first session, Convention on International Exhibitions (Ex. Rept. No. 2).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BROOKE:

S. 3397. A bill for the relief of Foo Ying Yee; and

S. 3398. A bill for the relief of Cheng-huai Li; to the Committee on the Judiciary.

By Mr. CASE:

S. 3399. A bill to amend the Federal Aviation Act of 1958 in order to provide for regulation of public exposure to sonic booms by certain aircraft over the United States; to the Committee on Commerce.

(See the remarks of Mr. CASE when he introduced the above bill, which appear under a separate heading.)

By Mr. MORSE:

S. 3400. A bill to provide Federal assistance to States for improving elementary and secondary teachers' salaries, for meeting the urgent needs of elementary and secondary education, and for other purposes; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. MORSE when he introduced the above bill, which appear under a separate heading.)

By Mr. SMATHERS:

S. 3401. A bill for the relief of James L. Shull; and

S. 3402. A bill for the relief of Lt. (junior grade) Richard A. Jackson, U.S. Naval Reserve; to the Committee on the Judiciary.

By Mr. JACKSON (by request):

S. 3403. A bill to designate the Flat Tops Wilderness, Routt and White River National Forests, in the State of Colorado; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. JACKSON when he introduced the above bill, which appear under a separate heading.)

By Mr. BREWSTER:

S. 3404. A bill to amend the Civil Service Retirement Act to authorize the retirement of employees after 25 years of service without reduction in annuity; to the Committee on Post Office and Civil Service.

(See the remarks of Mr. BREWSTER when he introduced the above bill, which appear under a separate heading.)

S. 3399—INTRODUCTION OF BILL TO DEAL WITH QUESTION OF OVERLAND SST FLIGHTS

Mr. CASE, Mr. President, I introduce, for appropriate reference, a bill to help resolve the question of whether supersonic transports should be permitted to fly over the United States in such a manner as to create sonic booms.

Possibly in less than 3 years supersonic transports—SST's—capable of flying twice the speed of sound, or about 1,200 miles an hour, will begin rolling off European production lines and into commercial service throughout the world. Already six major U.S. airlines have orderd a total of 38 of these Concordes, and 10 foreign airlines, most of which fly to the United States, have ordered 36 more.

While some delays have occurred in developing the 1,800 miles per hour American version of the SST, it is expected to be in commercial service by 1974 or 1975. The U.S. SST fleet will range anywhere from 200 to 1,200 planes.

It is clear that we must begin now to prepare for the advent of the commercial supersonic age. We are fortunate that time for action remains before the first commercial Concordes appear in American skies. It is the purpose of my bill to ban overland flights at supersonic speeds until all aspects of the sonic boom have been investigated and Congress has decided whether such flights should be permitted.

Specifically, my bill will (first) ban nonmilitary supersonic flights over the United States and its territories and possessions for an indefinite period; second, provide for a 2-year program of intensive scientific investigation into all aspects of the boom; and, third, put the decision on overland flights at more than the speed of sound in the hands of the Congress.

The rapid approach of the commercial supersonic age confronts us with some difficult choices. On the one hand we are naturally eager to take advantage of the faster means of travel that the supersonics will provide. But on the other we should be aware of the penalties we may have to pay for permitting supersonic airliners, trailed by their thunderous sonic booms, to fly over land, particularly over heavily populated areas.

Contrary to what many may believe, the boom follows continuously in the track of a plane moving faster than the speed of sound, and may be as much as 50 to 80 miles wide throughout a supersonic flight. On a single flight across the United States, the experts believe, as many as 10 to 20 million persons may be boomed by a supersonically operated SST.

Far more is involved than the shattering affront to the ears. Already initial tests have resulted in cracked plaster, broken windows, and tumbling bric-a-brac, though studies on structural damage are so far inconclusive. More importantly yet to be answered are such questions as the effect of the boom on persons with heart ailments, on surgeons in the midst of delicate operations, on sleeping people, on weak buildings, on mountains laden with snow or loose rocks and on ancient geological formations, a few areas of deep concern.

In short, is the boom tolerable? The tests conducted in Oklahoma City in 1964, for example, showed that 27 percent of the residents of that community could not tolerate eight booms a day. No tests were made at night.

The American taxpayer, who is paying—on a reimbursable basis, he hopes—for 90 percent of the cost of developing the U.S. SST prototype, is clearly entitled to ask whether the SST project amounts to progress. Prompted by growing concern over the destructive potential of the sonic boom, people at all levels of government and industry, as well as the public at large, are asking some pointed questions about the program: For example, are the convenience of the few who will use the plane and the competitive advantage it will bring to the airline and aircraft industries worth the billions it may cost to develop the SST and the possible deterioration to the environment that may be caused? One of the more important aspects of that question is whether supersonic flights over the United States should be permitted if the boom, a product of physical laws, cannot be reduced to tolerable levels, assuming such levels exist.

As matters presently stand the Federal Aviation Administration apparently has sufficient authority to give the answer to this question. Unfortunately, the FAA is not only in charge of SST development in the United States, but undoubtedly is the country's leading advocate of the project and its commercial and economic potential.

Further, its position on the question of supersonic overflights has been ambivalent. On the one hand it states that further testing is needed before the question can be answered. But on another, the head of the SST project for FAA has been quoted as saying that "the public will have to learn to accept sonic boom to a degree."

Even were the FAA not in this awkward position, a decision on multiple overland supersonic flights is too important to be left in the hands of a single Government agency. Clearly the people themselves must be permitted to decide through their elected representatives in the Congress.

But what criteria will Congress use in arriving at such a decision? I, and I think most Americans, believe that the health and welfare of our people and the quality of the environment we live in should be the central consideration.

My bill is designed to assure that Congress can make up its mind about supersonic overland flights on the basis of the broadest criteria possible. It will do this by directing the FAA to conduct a comprehensive, 2-year research effort into all aspects of the sonic boom. In carrying out its study, the FAA also is directed by my bill to consult with seven departments and agencies with either expertise in the sonic boom field or concerns about the boom's effects on various facets of American life. A number of studies have been made or are underway and the National Academy of Sciences has recommended additional research. An interim as well as a final report to the Congress is required by my bill.

The other part of my bill is the indefinite ban on supersonic flights. The purpose of this ban is to give Congress an opportunity to deliberate the supersonic overflight question in an atmosphere of calm. Such an atmosphere might not prevail if, at the time of congressional consideration, the Concorde is filling our skies with sonic booms.

The threat of the sonic boom is further illustration of the conflict between man's drive for technological progress and his desire for a livable environment. But as a nation I believe we are moving from blind idolization of technology to recognition that we must also be concerned with its effect on the quality of life and the livability of the environment.

In short, I believe we want technological and physical progress, but we want it on acceptable terms.

Insofar as this is possible with the sonic boom, my bill would help in achieving it. I hope, therefore, that hearings can be held on my bill in this session of Congress.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately re-

ferred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3399) to amend the Federal Aviation Act of 1958 in order to provide for regulation of public exposure to sonic booms by certain aircraft over the United States, introduced by Mr. CASE, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Federal Aviation Act of 1958 is amended by inserting at the end thereof a new subsection as follows:

"REGULATION OF SONIC BOOMS

"(g) The Administrator shall (1) prohibit nonmilitary aircraft, singly or in any combination thereof, from being operated over the United States (including territories and possessions thereof) in such a way as to produce sonic booms, but such prohibition shall not apply to aircraft used in the investigation and study herein authorized; (2) conduct a full and complete investigation and study for the purpose of determining what exposures to sonic booms (amount and frequency) are detrimental to the health and welfare of any persons, and such investigation and study shall include (A) consultation with the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the National Aeronautics and Space Administration, and the President of the National Academy of Sciences, and (B) such research as may be necessary, which shall include, but not be limited to, the startle effect and physiological or psychological problems that result from sonic booms and the possible detrimental effects on preservation of natural beauty and historic shrines; (3) within one year from the date of enactment of this subsection make a report to the Congress on his findings as of that time, together with the written comments of the above-mentioned officials; and (4) no later than two years from the date of enactment of this subsection, report to Congress on the final results of his findings, together with the final written comments of such Federal officials."

S. 3400—INTRODUCTION OF BILL ENTITLED "GENERAL EDUCATION ASSISTANCE ACT OF 1968"

Mr. MORSE. Mr. President, I introduce a bill which has the short title, "General Education Assistance Act of 1968." I am greatly indebted to the National Education Association for having given me the opportunity to present to the Senate and to the Committee on Labor and Public Welfare the language of the proposal which was drafted by their Legislative Commission.

This measure incorporates the view of the organization with respect to the next forward step which they determine to be in the public interest to have enacted. The bill reflects the hopes and aspirations of school teachers in every State, for it is a general Federal aid to education measure.

We have made great strides since 1960 in the enactment of educational legislation, but this legislation has necessarily until now consisted of measures which were relatively narrowly drawn to meet specific problems—in short, there has been categorical aid. But the men and women of the National Education Association Legislative Commission have come to the judgment that excellent as these programs are and have been, they do not strike to the root of the problems.

These are the problems which beset our school systems. These are the problems which are of major concern to the dedicated men and women who serve our children in the schools of our country. These are the problems which loom large in every community.

What are they? Essentially, as with most problems, they are caused by unmet needs. They are caused by inadequate or unavailable financial resources for education. Many of our citizens feel that the special aids that have been given, valuable though they have been and are, nevertheless suffer from one drawback and that is that they necessarily import into our system of school support financial rigidities, and to an extent, cause a distortion in the pattern of financing.

Because of this, it has been suggested that over and above, and in addition to, existing financial aids to schools and schoolchildren, there is needed a flexible and massive program of general school aid. This, the bill that I introduce today seeks to accomplish.

It would provide beginning in fiscal year 1970 and extending through fiscal year 1974 two types of grants. The basic grant to each State would be in the amount of $100 times the number of children in the population group 5 to 17 in that State as a proportion of all children aged 5 to 17 in the United States.

The cost annually of these basic grants is estmated to be $5 billion if fully appropriated.

The second grant program contained in the bill consists of supplemental equalization grants. Here an additional factor is introduced into the formula. It consists of incorporating into the formula a resource index factor which takes into account the personal income per child in the State as a proportion of the personal income per child in all the States based upon an average of the three most recent consecutive years. The effect of the addition of the resource index factor is to channel the application of funds to a degree to those States of our Nation which have the lowest personal income per capita.

So much for the manner in which the funding of the program is determined. How is it proposed that the grants be used?

Essentially, two purposes are set forth in the legislation. Fifty percent of the money is earmarked for increasing teachers' salaries, the remainder being freely applicable for current expenditures, including expenditures for employing additional teachers and teacher aides, preschool, and summer programs, and State educational expenditures.

Here we see legislation based upon the theory that decisions for the expenditure of educational funds ought to be made at the local level and that money which comes from the Federal Treasury should be used to supplement State and local resources for schools.

I am happy to introduce this bill today because, in my judgment, it will present a challenge and an opportunity to all who are interested in the education of our children. To stop for a moment, and to look ahead on the path that must be traveled in the next few years, I would be less than candid, in view of the many factors that were currently operative in our economy, if I were to urge that the program be adopted tomorrow. But it is necessary for us to think about the problems that this bill is designed to cure today and tomorrow so that we may achieve a legislative solution to the pressing problem in the next session of the Congress.

So as I introduce the bill I do so with the pledge that to the extent that lies within my power I shall do everything I can to assure that before this Congress adjourns sine die an opportunity will be given to the educational community to present testimony on the bill to suggest improvements to the language as introduced and to present to the Education Subcommittee their reaction to the ideas that are incorporated in this legislation.

Mr. President, I ask unanimous consent that attachments A and B be printed immediately following this statement, and I further request unanimous consent that the text of the legislation be printed at the close of my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and attachments will be printed in the RECORD.

The bill (S. 3400) to provide Federal assistance to States for improving elementary and secondary teachers' salaries, for meeting the urgent needs of elementary and secondary education, and for other purposes, introduced by Mr. MORSE, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Education Assistance Act of 1968".

BASIC GRANTS AUTHORIZED

SEC. 2. (a) The Commissioner shall, in accordance with the provisions of this Act, make basic grants to State educational agencies for increasing the salaries of teachers and meeting the urgent needs of State educational agencies and local educational agencies within such States for current expenditures.

(b) For the purpose of making such grants there is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each of the four succeeding fiscal years an amount equal to $100 multiplied by the number of children, aged five to seventeen, inclusive, in all States.

ALLOTMENTS FOR BASIC GRANTS

SEC. 3. (a) From the sums appropriated pursuant to section 2(b) for each fiscal year the Commissioner shall allot to each State an amount which bears the same ratio to the total of such sums as the number of children aged five to seventeen, inclusive, in such States bears to the number of such children in all States.

(b) The number of children aged five to seventeen, inclusive, and the total population of a State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

SUPPLEMENTAL EQUALIZATION GRANTS

SEC. 4. (a)(1) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each of the four succeeding fiscal years, $750,000,000 for the purpose of making supplemental equalization grants to State educational agencies under this section. From the remainder of such shall distribute such grant to local educational agencies within such State to be used for the purposes set forth in section 5, and amounts so distributed shall be used by such agencies in accordance with the provisions governing the use of grants to such agencies under this Act.

(2) From the sums appropriated pursuant to paragraph (1) of this subsection for any fiscal year the Commissioner shall allot not more than 3 per centum among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this section. Each State educational agency sums the Commissioner shall allot to each State an amount which bears the same ratio to such remainder as the resource index of such State for such year bears to the total of the resource indexes of all States for such year.

(b) For the purpose of this section—

(1) the term "resource index of a State" for any fiscal year for which the computation is made means the product of the number of children, aged five to seventeen, inclusive, in such State times the average allotment ratio of such State for such fiscal year;

(2) the term "average allotment ratio of a State" for the fiscal year for which the computation is made means the average of the three annual allotment ratios for such State for each of the three most recent consecutive calendar years for which satisfactory data are available, as determined by the Commissioner, preceding such fiscal year;

(3) the term "annual allotment ratio of a State" means the ratio which the personal income per child for all the States for one calendar year bears to the personal income per child for such State for such calendar year;

(4) the term "personal income per child" for a State for any calendar year means the total personal income for such State in such calendar year divided by the number of children, aged five to seventeen, inclusive, in such State in July of such calendar year; and

(5) the average allotment ratio for the District of Columbia shall be no smaller than the average allotment ratio for that State which has the smallest average allotment ratio.

(c) For the purpose of subsections (a)(2) and (b) of this section, the term "State" does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

USES OF FEDERAL GRANTS

SEC. 5. The State educational agency shall use at least one-half of any grant or grants received under this Act, in accordance with applications approved under section 6, for payment to local educational agencies within such State to be used by such local agencies for increasing the salaries of teachers employed by such local agencies, and for increasing the salaries of teachers employed by such State educational agency. The remainder of such grant may be used, in accordance with applications approved under section 6, for payment to local educational agencies within such State to meet the urgent needs of such local agencies for current expenditures, including expenditures for employing additional teachers and teacher aids, for summer school and preschool programs, and for State educational agencies to meet the urgent needs of any such agency for current expenditures, including expenditures for summer school and preschool programs.

APPLICATIONS

SEC. 6. (a) A grant or grants under this Act shall be made to a State educational agency upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

(1) provide that the use of the Federal funds received under this Act will be administered by or under the supervision of the State educational agency;

(2) provide assurances that such funds will be used in accordance with section 5, and prescribe criteria for achieving equitable distribution of such funds within such State and for identifying the urgent needs for current expenditures of such State agency and of local educational agencies within such State;

(3) set forth policies and procedures which assure that Federal funds made available under this Act for any fiscal year (A) will not be commingled with State funds, and (B) will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be available for the purposes described in section 5, and in no case supplant such funds;

(4) provide assurances that, to the extent consistent with law, programs and services designed to meet urgent needs for current expenditures will be provided on an equitable basis to children attending private elementary and secondary schools in the State which comply with the compulsory attendance laws of the State or are otherwise recognized by it through some procedure customarily used in the State;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of an accounting for Federal funds received under this Act, and such reporting procedures, including an evaluation of the impact of Federal funds received under this Act, as the Commissioner may reasonably require; and

(6) provide adequate procedures for afford ing the local education agencies within such State reasonable notice and opportunity for hearing.

(b) The Commissioner shall approve an application which meets the requirements specified by subsection (a) of this section and shall not finally disapprove, in whole or in part, any application without first affording the State educational agency submitting the application reasonable notice and opportunity for a hearing.

PAYMENTS

SEC. 7. (a) From the amount allotted to each State pursuant to section 3 or pursuant to section 4, or both, the Commissioner shall pay to the State educational agency of such State which has an application approved under section 6 an amount equal to the amount needed for the purposes set forth in such application.

(b)(1) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this Act, except that the total of such payments in any fiscal year shall not exceed—

(A) 1 per centum of the total of the amount paid under this Act for that year to the State educational agency, or

(B) $150,000, or $25,000 in the case of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territories of the Pacific Islands, whichever is greater.

(2) There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(c) Payments under this Act may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

WITHHOLDING

SEC. 8. Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any provision set forth in the application of that State approved under section 6, the Commissioner shall notify the agency that further payments will not be made to the State under this Act (or, in his discretion, that the State educational agency shall not make further payments under this Act to specified local educational agencies whose actions caused or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this Act, or payments by the State educational agency under this Act shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

JUDICIAL REVIEW

SEC. 9. (a)(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 6 or with his final action under section 8, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(b)(1) If any local educational agency is dissatisfied with the final action of the State educational agency with respect to any payment to such local agency pursuant to this Act, such local agency may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State educational agency. The State educational agency thereupon shall file in the court the record of the proceedings on which the State educational agency based its action as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the State educational agency, if supported by substantial evidence shall be conclusive; but the

court, for good cause shown, may remand the case to the State educational agency to take further evidence, and the State educational agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

(3) The court shall have jurisdiction to affirm the action of the State educational agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

PROHIBITIONS

SEC. 10. (a) Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system, or the selection of library resources by any educational institution or school system, or over the content of any material developed or published under any program assisted pursuant to this Act.

(b) Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

ADMINISTRATION

SEC. 11. (a) The Commissioner may delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the Office of Education.

(b) In administering the provisions of this Act, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

DEFINITIONS

SEC. 12. As used in this Act—

(1) The term "Commissioner" means the Commissioner of Education.

(2) The term "teacher" means any member of the instructional staff of a public elementary or secondary school who is engaged in the teaching of students, as further defined by the State educational agency of each State.

(3) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, community services, pupil transportation services, operation and maintenance of plant, fixed charges, food services and student body activities, but not including expenditures for capital outlay, and debt service.

(4) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(5) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(6) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(7) The term "salaries" means the annual monetary compensation paid to teachers for services rendered in connection with their employment.

(8) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(9) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(10) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

The attachments, presented by Mr. MORSE, are as follows:

ATTACHMENT A

I. BASIC GRANTS TO STATES—FISCAL YEAR 1970–74

Amount = $100 × number children 5 to 17 (ca. $5 billion).

$$\text{State grant} = \frac{\text{children 5 to 17 in State}}{\text{children 5 to 17 in United States}}$$

II. SUPPLEMENTAL EQUALIZATION GRANTS—FISCAL YEAR 1970–74

Amount = $750 million.

$$\text{State grant} = \frac{\text{resource index of State}}{\text{resource index of United States}}$$

$$\text{esource index} = \text{children 5 to 17} \times \frac{\text{personal income per* child 5 to 17 in State}}{\text{personal income per* child 5 to 17 in United States}}$$

*Based upon average of 3 most recent consecutive years.

III. USES OF GRANTS

At least 50 per cent: increasing teachers' salaries.

Remainder: current expenditures, including expenditures for employing additional teachers and teacher aids, preschool and summer programs, State educational expenditures.

IV. APPLICATIONS

State agency is applicant "at such time or times, in such manner and containing or accompanied by such information as the Commissioner deems necessary"; funds to supplement, not supplant, State and local funds; no comingling with State funds; "to the extent consistent with law," programs and services to meet current expenditures to be provided on equitable basis to children in nonpublic schools; 1% or $150,000, whichever is greater, for State administrative expenses ($25,000 for outlying areas).

V. JUDICIAL REVIEW

State may seek judicial review in U.S. Court of Appeals of Commissioner's decision; local educational agency may seek judicial review of State decision.

ATTACHMENT B

STATE ALLOCATIONS UNDER $6 BILLION NEA PROGRAM

State	Basic grant (millions)	Equalization grant (millions)	Total grant (millions)	Total amount per child (5–17 years)
1	2	3	4	5
Alabama	$96.1	$19.6	$115.7	$120.40
Alaska	8.4	1.0	9.4	111.90
Arizona	46.3	7.6	53.9	116.41
Arkansas	50.8	10.0	60.8	119.69
California	487.0	52.9	539.9	110.86
Colorado	54.0	7.5	61.5	113.89
Connecticut	73.0	7.4	80.4	110.14
Delaware	14.4	1.6	16.0	111.11
District of Columbia	18.4	1.9	20.3	110.33
Florida	149.4	21.4	170.8	114.32
Georgia	122.4	21.6	144.0	117.65
Hawaii	20.6	2.8	23.4	113.59
Idaho	20.0	3.5	23.5	117.50
Illinois	276.4	30.0	306.4	110.85
Indiana	134.5	17.8	152.3	113.23
Iowa	72.5	10.0	82.5	113.79
Kansas	60.0	8.2	68.2	113.67
Kentucky	84.5	15.4	99.9	118.22
Louisiana	106.0	20.5	126.5	119.34
Maine	26.0	4.2	30.2	116.15
Maryland	99.0	12.3	111.3	112.42
Massachusetts	135.0	15.0	150.0	111.11
Michigan	238.0	30.9	268.9	112.98
Minnesota	100.5	14.6	115.1	114.53
Mississippi	67.4	17.1	84.5	125.37
Missouri	118.0	15.7	133.7	113.31
Montana	20.0	3.3	23.3	116.50
Nebraska	37.7	5.2	42.9	113.79
Nevada	11.5	1.3	12.8	111.30
New Hampshire	$17.6	$2.4	$20.0	$113.64
New Jersey	172.5	18.3	190.8	110.61
New Mexico	31.5	6.1	37.6	119.37
New York	432.5	43.6	476.1	110.08
North Carolina	134.4	24.7	159.1	118.38
North Dakota	18.0	3.2	21.2	117.78
Ohio	280.5	37.2	317.7	113.26
Oklahoma	60.9	9.4	70.3	115.44
Oregon	51.5	6.8	58.3	113.20
Pennsylvania	289.0	36.4	325.4	112.60
Rhode Island	22.2	2.7	24.9	112.16
South Carolina	73.6	16.1	89.7	121.88
South Dakota	18.8	3.4	22.2	118.09
Tennessee	99.8	18.0	117.8	118.04
Texas	294.4	47.6	342.0	116.17
Utah	31.3	5.6	36.9	117.89
Vermont	11.1	1.8	12.9	116.22
Virginia	118.3	18.0	136.3	115.22
Washington	82.3	10.4	92.7	112.64
West Virginia	46.5	8.5	55.0	118.28
Wisconsin	115.0	15.8	130.8	113.74
Wyoming	8.9	1.3	10.2	114.61
American Samoa	1.1	.3	1.4	125.37
Guam	2.6	0.7	3.3	125.37
Puerto Rico	90.7	22.9	113.6	125.37
Virgin Islands	1.3	.3	1.6	
Trust territories	3.3	.8	4.1	125.37
U.S. total	5,257.4	742.6	6,000.0	114.12

S. 3403—INTRODUCTION OF BILL TO DESIGNATE THE FLAT TOPS WILDERNESS, ROUTT AND WHITE RIVER NATIONAL FORESTS, IN THE STATE OF COLORADO

Mr. JACKSON. Mr. President, as you know, the President has transmitted to the Congress proposals for the addition of 26 new areas to the national wilderness preservation system. Several of these proposals have already been introduced and referred to the Senate Interior and Insular Affairs Committee, of which I am chairman.

By request, I now introduce, for appropriate reference, a bill to designate the Flat Tops Wilderness Area in the Routt and White River National Forests of Colorado.

The total wilderness acreage would be 142,230, including 99,489 acres of the existing Flat Tops Primitive Area, plus 42,741 acres of adjacent lands.

The area is located on the White River Plateau in northwestern Colorado, approximately 20 miles north of the town of Glenwood Springs and 30 miles southwest of the town of Steamboat Springs. The proposed wilderness lies within 250 miles of approximately 2 million people.

A variety of wilderness characteristics is offered by this high-elevation plateau and its rugged river canyons. There are sheer volcanic escarpments, alpine peaks and open grass parks. The area features an abundance of mountain scenery, solitude, tranquil lakes, rushing streams, abundant wildlife, and virtually no evidence of man's intrusion.

A hearing on the wilderness proposal was held in Glenwood Springs by the Forest Service on October 10, 1966. Eighty-nine oral presentations were made, and more than 350 letters were received. At the hearing, there was disagreement over the size and boundary of the proposed area, but there was overwhelming sentiment in favor of adding the Flat Tops area to the national wilderness preservation system.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3403) to designate the Flat Tops Wilderness, Routt and White River National Forests, in the State of Colorado, introduced by Mr. JACKSON (by request), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 3404—INTRODUCTION OF BILL RELATING TO RETIREMENT OF EMPLOYEES UNDER THE CIVIL SERVICE RETIREMENT ACT

Mr. BREWSTER. Mr. President, I am today introducing, for appropriate reference, a bill to amend the Civil Service Retirement Act to authorize the retirement of employees after 25 years of service without reduction in annuity.

Such a bill, allowing retirement at 25 years, will naturally be most attractive to those workers who have reached this point in their careers. It will allow them to serve their professions to their fullest capacity and yet to leave Government service at an age when they are still able to pursue other profitable endeavors. It will also allow them to enjoy richer, more meaningful retired years which their families can share.

Second. With the emphasis on the excellence of youth that is so prevalent in our Nation today, we have a wealth of young people eager for employment and advancement. My bill will obviously make Federal service more attractive as their chosen profession. It will give us a chance to employ people in the prime of their working years, to promote readily in order to derive maximum benefit from their potentials, and to streamline our civil service functions.

Mr. President, I believe that this legislation will be beneficial to everyone concerned. It will appeal to the Federal employee about to retire, to the young employee anticipating a profitable Federal career, and to the Federal Government, which can look forward to a more efficient, viable, and eager labor force.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3404) to amend the Civil Service Retirement Act to authorize the retirement of employees after 25 years of service without reduction in annuity, introduced by Mr. BREWSTER, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTION

Mr. HARTKE. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Georgia [Mr. TALMADGE] be added as a cosponsor of the bill (S. 2429) to amend the Internal Revenue Code of 1954 to allow an income tax credit to employers for the expenses of providing training to their employees and prospective employees under approved programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. SMITH. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Minnesota [Mr. MONDALE] be added as a cosponsor of the bill (S. 2862) to enable potato growers to finance a nationally coordinated research and promotion program to improve their competitive position and expand their markets for potatoes by increasing consumer acceptance of such potatoes and potato products and by improving the quality of potatoes and potato products that are made available to the consumer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that, at its next printing, the name of the senior Senator from New York [Mr. JAVITS] be added as a cosponsor of the joint resolution (S.J. Res. 117) to provide that it be the sense of Congress that a White House Conference on Aging be called by the President.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 282—RESOLUTION TO PRINT AS A SENATE DOCUMENT A REPORT BY SENATOR ELLENDER ENTITLED "REVIEW OF UNITED STATES GOVERNMENT OPERATIONS IN SOUTH ASIA"

Mr. ELLENDER submitted the following resolution (S. Res. 282); which was referred to the Committee on Rules and Administration:

S. RES. 282

Resolved, That a report entitled "Review of United States Government Operations in South Asia", submitted by Senator ALLEN J. ELLENDER to the Senate Committee on Appropriations on April 2, 1968, be printed as a Senate document; and that two thousand two hundred additional copies of such document be printed for the use of that committee.

SENATE RESOLUTION 283—RESOLUTION TO PRINT ADDITIONAL COPIES OF THE SENATE REPORT TO ACCOMPANY S. 917, THE SAFE STREETS AND CRIME CONTROL ACT

Mr. McCLELLAN submitted a resolution (S. Res. 283) authorizing the printing of additional copies of the Senate Report to accompany S. 917, the Safe Streets and Crime Control Act, which was considered and agreed to.

(See the above resolution printed in full when submitted by Mr. MCCLELLAN, which appears under a separate heading.)

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967—AMENDMENT

AMENDMENT NO. 708

Mr. HRUSKA. Mr. President, earlier today there has been reported to the Senate, out of the Senate Committee on the Judiciary, S. 917 together with a report thereon, including minority, individual, and additional views.

In due and proper time, this Senator, on behalf of himself and several of his colleagues, will call up an amendment in the nature of a substitute to title IV of said bill.

At this time I submit the amendment, and ask that it be printed.

Mr. President, I ask unanimous consent that a sectional analysis of the provisions of this amendment be printed in the RECORD at this point. I ask further unanimous consent that the text of that amendment itself be printed in the RECORD following the analysis referred to.

The PRESIDING OFFICER. The amendment will be received, printed, and will lie on the table; and, without objection, the analysis and amendment will be printed in the RECORD.

The analysis, presented by Mr. HRUSKA, is as follows:

SECTIONAL ANALYSIS OF THE PROVISIONS OF AMENDMENT

PART A—FEDERAL FIREARMS ACT AMENDMENTS

Section 901

Section 901 of amendment—amends section 1 of the Federal Firearms Act (52 Stat. 1250) by restating and clarifying existing definitions contained in the act and adding several new definitions.

The definition of "person" is unchanged. The terms "interstate or foreign commerce," "firearm," "manufacturer," "dealer," and "fugitive from justice," have been restated and clarified. The term "ammunition" has been deleted. The terms "State," "pawnbroker," "Secretary," "indictment," and "published ordinance" are new.

Paragraph (1)

The definition of the term "person" in paragraph (1) of amendment—is unchanged from the existing law (15 U.S.C. 901(1)).

Paragraph (2)

Paragraph (2) of section 901 of amendment—adds a new definition "State" to simplify and clarify later provisions of the bill and the existing law. The Canal Zone is included in the definition. Previously it was excluded. Also included are the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa, the principal Commonwealth and possessions of the United States.

Paragraph (3)

Paragraph (3) restates the existing definition of "interstate or foreign commerce" (15 U.S.C. 901(2)). However, language has been removed that has been defined in paragraph (2) above.

Paragraph (4)

Paragraph (4) restates the definition of "firearm" and revises it to exclude from the act antique firearms made in 1898 or earlier. Also mufflers and silencers for firearms are removed from the definition.

The year 1898 was selected as the "cutoff" date on the basis of testimony presented to Congress by several gun collectors organizations and to be consistent with the regulations on importation of firearms issued by the Department of State pursuant to section 414 of the Mutual Security Act of 1954.

Mufflers and silencers for firearms are excluded from coverage since these items are included presently in the National Firearms Act (Ch. 53 of the Internal Revenue Code of 1954). This act provides for heavy transfer taxes and registration of all such items.

Also excluded from the present definition of the term "firearm" is "any part or parts" of a firearm. Experience in the administration of the Federal Firearms Act has indicated that it is impractical to treat each small part as if it were a firearm. The revised definition substitutes the words "frame or receiver" for the words "any part or parts."

Added to the term "firearm" are weapons which "may be readily converted to" a firearm. The purpose of this addition is to include specifically any starter gun designed for use with blank ammunition which will or which may be readily converted to expel a projectile or projectiles by the action of an explosive. Starter pistols have been found to be a matter of serious concern to law enforcement officers.

Paragraph (5)

The definition of the term "'handgun" in paragraph (5) is a new provision. This definition is necessary because of later provisions of the bill which have application solely to these firearms. There is no intention that handguns be exempted from any of the other provision of amendment since a handgun is a firearm within the meaning of paragraph (4) above.

The term includes "pistols," "revolvers" and "any other weapons originally designed to be fired by the use of a single hand" which are made to be fired by the use of a single hand and which are designed to fire or are capable of firing fixed cartridge ammunition.

Paragraph (6)

The definition of the term "manufacturer" is a restatement of existing law (15 U.S.C. 901(4)) except that references to "ammunition, cartridge cases, primers, bullets, or propellant powder" have been stricken.

This deletion was made because experience in the administration of the Federal Firearms Act has showed that it is extremely difficult to control interstate and foreign commerce in ammunition.

The requirement that the manufacturer be "in the business of" manufacturing or importing firearms has been added to the definition to conform with a similar provision in the definition of "dealer."

Paragraph (7)

The definition of the term "dealer" is a restatement of existing law (15 U.S.C. 901(5)) except that references to "ammunition, cartridge cases, primers, bullets, or propellant powder" have been stricken as in the definition of "manufacturer" above.

The word "special" has been stricken from the definition since a gunsmith or other person in the business of repairing firearms should be required to comply with the provisions of the Federal Firearms Act if he fits only barrels which do not fall into "special" category.

The words "or breech mechanism" have been stricken because they are unnecessary to a complete description of the functions performed by a person in the business of repairing firearms.

Other minor rephrasing of the language in the definition has been made to clarify the existing language.

Paragraph (8)

The definition of the term "pawnbroker" is a new provision. Pawnbroker dealers are covered under the provisions of the existing law in the same manner as other dealers. The purpose of this definition is to provide a basis for a separate classification of pawnbroker dealers.

Under this bill pawnbrokers would be subject to a higher license fee than other dealers.

Paragraph (9)

The definition of the term "Secretary" contained in paragraph (14) is a new provision. The purpose of this definition is to eliminate the necessity of repeating "Secretary of the Treasury or his delegate" in several sections of the act.

Paragraph (10)

The definition of the term "indictment" is a new provision. Inasmuch as a person under indictment for certain crimes is proscribed from shipping or receiving firearms in interstate or foreign commerce, and a license under the act will not be issued to such a person, the definition will serve a useful purpose in making it clear that an "information" charging a crime is the same as an indictment charging a crime. This definition is in accord with the opinion of the court in *Quinones* v. *United States*, 161 F. 2d 79.

Paragraph (11)

The definition of the term "fugitive from justice" is a restatement of existing law (15 U.S.C. 901(6)) with reference to "Territory, the District of Columbia, or possession of the United States" omitted in accordance with the definition of "State" in paragraph (2) above.

Paragraph (12)

The definition of the term "published ordinance" is new to Amendment ——. It was not defined in S. 1853 although the term was used in the sworn statement required in section 2 of the bill in the provisions of the new section 2(1). The term means an ordinance or regulation of any political subdivision of a state which has been lawfully promulgated under the laws of the state, published in written form and in full force and effect. Any such jurisdiction desiring to have such an ordinance made applicable to interstate sales of firearms which are destined for that jurisdiction would be required to notify the Secretary of the Treasury of the existence and validity of the ordinance or regulation and submit a true copy of the document to the Secretary for review. If, after review, the Secretary finds that the ordinance imposes conditions on the sale or receipt of firearms within the jurisdiction which could reasonably be applied to interstate transactions, and relevant to the enforcement of the Federal Firearms Act, as amended by this amendment, then the Secretary shall include the name of the jurisdiction in a list to be compiled annually by the Secretary, published in the Federal Register and sent to each licensee.

"Ammunition"

The definition of the term "ammunition" has been stricken from the existing law (15 U.S.C. 901(7)), to exclude all ammunition from the coverage of the Federal Firearms Act.

Under existing law, the term included pistol and revolver ammunition. However, an evaluation of the evidence developed in the hearings before the committee showed that it is difficult to control effectively interstate and foreign commerce in conventional firearms ammunition used for sporting, recreational, and other lawful purposes and that the act was not enforced in this regard.

Section 902

Section 2 of the Federal Firearms Act (15 U.S.C. 902) would be restated, revised and six new subsections added. References to ammunition have been eliminated in subsections (a), (b), (d), (e), and (g). Subsection (c) has been substantially revised and broadened. Subsections (f) and (i) have been restated and language stricken which has been declared unconstitutional. Subsections (j) through (o) are new.

Subsection (a)

Subsection (a) of section 2 of existing law (15 U.S.C. 902(a)) has been restated except that the words "or ammunition" have been stricken.

Subsection (b)

Subsection (b) of section 2 of existing law (15 U.S.C. 902(b)) has been restated except that the words "or ammunition" have been stricken and minor changes have been made for clarity.

Subsection (c)

Subsection (c) of section 2 of existing law (15 U.S.C. 902(c)) has been revised and its scope broadened so that it is an unlawful act within the meaning of the act for any Federal licensee to knowingly ship or transport directly or indirectly in interstate or foreign commerce any firearm (including rifles and shotguns as well as handguns) to any person in any State in violation of any State law or published ordinance which has application to the shipment.

The existing provision has application only to State firearms control laws which require purchase permits. Fewer than 10 States have such laws, whereas most States and many local jurisdictions have firearms laws and ordinances which impose controls and restrictions on the receipt, transportation or possession of firearms in a variety of ways.

This provision has been broadened to assist the States and localities in the control of firearms commerce within their respective borders by insuring that channels of interstate and foreign commerce will not be used to circumvent applicable State laws.

It is not the intention of the subsection to impose absolute criminal liability on Federal licensees. It is contemplated that an affirmative defense would be allowed so that any person charged with a violation of this section may establish that he took reasonable efforts to ascertain that the shipment would not be in violation of the applicable State laws.

Subsection (d)

Subsection (d) of section 2 of the existing law (15 U.S.C. 902(d)) has been restated

and modified. The words "or ammunition" have been stricken.

The words "territories, possessions, or the District of Columbia" have been stricken as they fall within the meaning of the term "State" as defined in section 1(2) of the bill.

Subsection (e)

Subsection (e) of section 2 of the existing law (15 U.S.C. 902(e)) has been restated and modified by substituting crime "of violence" for the words "punishable by imprisonment for a term exceeding one year" and by striking the words "or ammunition."

Subsection (f)

Subsection (f) as changed by section 902 of the amendment is a restatement of existing law (15 U.S.C. 902(f)). The restatement eliminates the words "and the possession of a firearm or ammunition by any such person shall be presumptive evidence that such firearm or ammunition was shipped or transported or received, as the case may be, by such person in violation of this act," since the presumption is meaningless in view of the decision of the Supreme Court in *Tot* v. *United States,* 319 U.S. 463.

Subsection (g)

Subsection (g) as changed by section 902 of the amendment is a restatement of existing law (15 U.S.C. 902(g) and has been revised by striking the words "or ammunition" and making minor changes for clarity.

Subsection (h)

Subsection (h) as changed by section 902 of the amendment is a restatement of existing law (15 U.S.C. 902(h)) and the words "or ammunition" stricken wherever they appear. Also, minor changes have been made for clarity.

Subsection (i)

Subsection (i) as changed by section 902 of the amendment is a restatement of existing law (15 U.S.C. 902(i)). The restatement also deletes the words "and the possession of any such firearm shall be presumptive evidence that such firearm was being transported, shipped, or received, as the case may be, by the possessor in violation of this act" since the presumption is meaningless in view of the decision of the Supreme Court in *Tot* v. *United States,* 319 U.S. 463.

Subsection (j)

Subsection (j) as changed by section 902 of the amendment is a new provision which would make it unlawful for any licensee under the act knowingly to deliver, or cause to be delivered, to any common or contract carrier for transportation or shipment in interstate or foreign commerce, any package containing a firearm, without written notice to the carrier that a firearm is being transported or shipped. This provision is correlated to the provisions of section 2(c). Testimony before the committee disclosed the existence of a practice of surreptitiously shipping firearms, without notice or disclosure, to circumvent requirements of Federal or State law.

Subsection (k)

Subsection (k) prohibits a common or contract carrier from delivering in interstate or foreign commerce any handgun to any person knowing or having reasonable cause to believe that such person is under 21 years of age or any firearm (including rifles and shotguns) to any person under 18.

Subsection (l)

Subsection (l) as added by section 902 of the amendment is a new provision that would establish a procedure whereby the channels of interstate and foreign commerce could not be used to circumvent applicable State laws and local ordinances. It would make it a violation of the Federal Firearms Act for any licensee to ship any handgun in interstate or foreign commerce to any person other than another licensed manufacturer or dealer unless the prospective recipient has submitted a sworn statement to the manufacturer or dealer containing material information pertaining to the sale.

The dealer must then forward a copy of the statement to the appropriate local law enforcement officer or designated State official by registered or certified mail, receive a return receipt evidencing delivery of the letter or notice of refusal to accept the letter, and wait at least 7 days after return of the receipt or refusal before making delivery of the handgun to the recipient.

While there is no express requirement for this procedure to be followed by dealers with respect to mail order sales of rifles and shotguns, no provision of the amendment would bar a licensee from requiring a sworn statement from the purchaser if he so desires.

Paragraph (1)

Paragraph (1) of such subsection (l) provides that the sworn statement to be submitted to the dealer or manufacturer by the prospective recipient shall be in such form as prescribed by the Secretary of the Treasury and shall contain the following information: (1) That the recipient is at least 21 years or more of age; (2) that he is not prohibited by the Federal Firearms Act from receiving a handgun in interstate or foreign commerce; (3) that there are no provisions of applicable State law or local ordinance which would be violated by the purchaser's receipt or possession of the handgun; and (4) the title, name, and official address of the principal law enforcement officer where the handgun is to be shipped.

Paragraph (2)

Paragraph (2) of such subsection (l) provides that prior to shipment of the handgun to the purchaser, the dealer, or manufacturer shall forward to the appropriate local law enforcement or State official a description of the handgun (not including serial number) and a copy of the sworn statement by registered or certified mail. Also, the dealer must receive a return receipt evidencing delivery of the letter containing the description of the handgun and the copy of the sworn statement or a notice of refusal to accept the letter in accordance with the applicable regulations of the Post Office Department.

Paragraph (3)

Paragraph (3) of such subsection (l) would impose a 7-day waiting period following receipt of the notification of the local law enforcement officer's acceptance or refusal before the manufacturer or dealer could make delivery to the consignee.

In addition, subsection (l) provides (1) that the Governor of any State may designate any official in his State to receive the notification to local law enforcement officials required by this subsection and that the Secretary shall publish such designation in the Federal Register; and (2) that the Governor of any State may request that the Secretary discontinue the required notification to local law enforcement officials in his State or any part thereof and upon publication in the Federal Register, the request shall be in effect for 5 years, unless withdrawn by the Governor and so published in the Federal Register.

Subsection (m)

Subsection (m) as added by section 902 of amendment is a new provision prohibiting licensees under the act from selling a handgun to an unlicensed individual who is a resident of a State, other than that in which the manufacturer's or dealer's place of business is located without compliance with the provisions of subsection (l) above. The subsection is intended to deal with the serious problem of individuals going across State lines to procure firearms which they could not lawfully obtain or possess in their own State and without the knowledge of their local authorities. The hearings before the committee have demonstrated the ease with which residents of a particular State, which has laws regulating the purchase of firearms, can circumvent such laws by procuring a firearm in a neighboring jurisdiction which has no such controls on the purchase of firearms. The hearings have also shown that this is a means by which criminal and lawless elements obtain firearms.

This provision allows such handgun purchases to be made, but only after compliance with the detailed procedures set forth in subsection (l) above.

Subsection (n)

Subsection (n) of section 902 of amendment is a new provision that would make it unlawful for any person, in purchasing or otherwise obtaining or attempting to purchase or otherwise obtain a firearm from a licensed manufacturer or licensed dealer under this act, knowingly to make any written or oral false statement or to knowingly supply any false or spurious information or identification intended or calculated to deceive such licensee with respect to such person's identity, age, address, or criminal record (if any), or with respect to any other material fact pertinent to the lawfulness of a sale or other disposition of a firearm by a licensed manufacturer or licensed dealer.

Subsection (o)

Subsection (o) of section 902 as contained in amendment is a new provision that would make it unlawful for any person to bring into or receive in the State where he resides a firearm purchased or otherwise obtained outside that State if it is unlawful for him to purchase or possess such firearm in the State (or political subdivision thereof) where he resides.

The intent of this provision is to assist the States and their political subdivisions in the enforcement of applicable firearms control laws and ordinances by imposing Federal felony sanctions upon those who utilize channels of interstate or foreign commerce to circumvent or evade these laws and ordinances.

Section 903

Section 903 of amendment would restate and revise section 3 of the Federal Firearms Act (15 U.S.C. 903). All references to ammunition would be stricken along with references to territories and possessions.

Subsection (a) of the existing law would be revised and the fee schedules for manufacturers, dealers, and pawnbrokers set forth in separate paragraphs. The fees for manufacturers and dealers would be increased. The fee for pawnbroker dealers is new. Subsection (b) of the existing law would be revised and four new requirements for obtaining a Federal license established. The applicant must be at least 21 years of age, must not be prohibited from transporting firearms under the provisions of the act, and must not have made false statements or misrepresented material facts in connection with his application. The applicant must not have willfully violated any provisions of the act. Subsection (c) of amendment is a new provision intended to substitute for section 3(c) of the existing law. Subsection (d) is a restatement of the recordkeeping requirement of existing law with minor changes.

Subsection (a)

Subsection (a) of amendment is intended to make it clear that no person shall engage in business as a manufacturer of firearms, or as a dealer in firearms until he has filed an application with, and received a license to do so from the Secretary. In order to regulate effectively interstate and foreign commerce in firearms it is necessary that all persons engaging in these businesses be licensed. Similar provisions were upheld in *Hanf* v. *United States* (235 F. 2d 710, cert. den. 352 U.S. 880), as reasonably necessary to effective control of interstate and foreign commerce under comparable conditions.

Subsection (a) also provides that the application for a license shall be in such form and contain such information as the Secretary of the Treasury shall by regulation prescribe. It is the intent of this provision to authorize the Secretary to require the submission of information reasonably relevant to the determination as to whether the applicant is entitled to a license under the standards prescribed in subsection (b). Since the Secretary has the responsibility for determining whether the license should be issued, he must necessarily have the authority to require the submission by the applicant of information relevant to his determination as to the applicant's eligibility. Authority to prescribe the forms of the license application has been exercised by the Secretary since the Federal Firearms Act was enacted in 1938.

Subsection (a) also increases license fees presently contained in section 3(a) of the Federal Firearms Act and adds a new fee for pawnbrokers. The annual fee for manufacturers (including importers) would be doubled from $25 to $50. Fees for dealers (including gunsmiths) would be increased from $1 to $10, except that a one-time fee of $25 would be levied for the first renewal date following the effective date of the bill or for the first year the dealer is engaged in business. This additional charge would help to defray the costs of the investigation necessary to determine if the applicant has met the licensing requirements contained in section 3(b) of the amendment.

A separate license with a higher license fee is also provided for pawnbroker dealers. A "pawnbroker" is defined in paragraph (8) of section 1 of the amendment. It is noted that under the National Firearms Act (26 U.S.C. ch. 53) pawnbroker dealers are charged a higher rate of occupational tax than other dealers.

Since all references to ammunition would be removed from the act by the amendment, the substantial number of persons who deal only in ammunition will not be required to obtain a license under the act. Thus, ammunition reloaders and ammunition dealers will not be affected by the amendment.

Subsection (b)

Subsection (b) establishes four conditions under which no licenses shall be issued by the Secretary of the Treasury or his designee. An application for a license shall be denied if the applicant is "under 21 years of age," if he is "prohibited by the provisions of the act from transporting, shipping, selling, or receiving firearms in interstate or foreign commerce," or if he has willfully violated any provisions of the act or regulations issued thereunder. This requirement would include failure of a licensee to keep proper records as might reasonably be required by the Secretary. Also, an application could be disapproved if the applicant has "willfully failed to disclose any material information required, or made any false statement as to any material fact, in connection with his application."

Subsection (c)

Subsection (c) as contained in the amendment replaces the provisions of existing law contained in section 3(c) of the act (15 U.S.C. 903(c)) and reflects the construction of existing law as contained in current regulations (26 CFR, pt. 177).

The requirement of existing law, concerning the posting of a bond by a licensee convicted of a violation of the act in order to continue operations pending final disposition of the case on appeal, serves no useful purpose, and has been omitted. Further, the provisions of this subsection have been revised to simplify administration. Since the licensee is required to reapply each year for a license, the information on the application relating to his indictment and/or conviction will be adequate. Also, the license itself can, as at present, contain a warning that the licensee cannot continue operations once his conviction has become final (other than as provided in section 10 of the existing law).

As under existing law and regulations, a new license will not be issued to a person under indictment for, or who has been convicted of, an offense punishable by imprisonment for a term exceeding 1 year. However, a licensed manufacturer or licensed dealer may continue operations pursuant to his existing license (provided that prior to the expiration of the term of the existing license timely application is made for a new license), during the term of such indictment and until any conviction pursuant to the indictment becomes final, whereupon he shall be subject to all provisions of this act, and operations pursuant to such license shall be discontinued. If a bona fide application for relief is filed under section 10 of the act, operations may continue until such application is acted upon.

Subsection (d)

Subsection (d) would restate and revise section 3(d) of the Federal Firearms Act (15 U.S.C. 903(d)). References to ammunition would be removed from the existing law. The word "permanent" would be stricken from the recordkeeping requirement of the subsection, since the Secretary of Treasury is given specific authority to prescribe regulations for the implementation of this requirement. The length of time for which the records should be kept and maintained by licensees under the provisions of the act and other administrative details would be left to the discretion of the Secretary. Thus, the word "permanent" becomes meaningless. It is anticipated that any regulations issued under that authority granted by this subsection would be reasonable and in accordance with good commercial practice and custom.

Section 904

Section 904 of amendment would restate section 4 of the Federal Firearms Act (15 U.S.C. 904), strike the references to ammunition and to territories, possessions, and the District of Columbia, and renumber and revise several provisions of the section for clarity.

Subsection (a)

Subsection 904(a) of amendment would restate portions of section 4 of the Federal Firearms Act (15 U.S.C. 904) and make several modifications thereof. Ammunition would be removed as elsewhere in the bill. The words "territory, or possession, or the District of Columbia," would be stricken consistent with their deletion in other sections of the bill. Other revisions would be made by renumbering and rephrasing provisions of the section for clarity without changing the meaning of existing law.

Subsection (b)

Subsection 904(b) of amendment would restate the remainder of section 4 of the Federal Firearms Act (15 U.S.C. 904) and would make certain modifications. All references to ammunition would be deleted. The Secretary of "Defense or his designee" would be substituted for the Secretary of "War". The words "receipt or" would be added to the last sentence of the section to clarify the provision contained therein and other technical revisions made for the same purpose without altering the meaning of existing law.

Section 905

Section 905 of the amendment would restate section 5 of the Federal Firearms Act, add an element of reasonable cause to the provision which makes it unlawful for an applicant for a license or exemption to make a false statement in connection with the application, increase the maximum penalties provided for in the act from $2,000 to $10,000 and from 2 years to 10 years, provide for parole of sentenced offenders as the board of parole shall determine, remove the reference to ammunition contained in subsection (b), and update the reference to the Internal Revenue Code.

Subsection (a)

Subsection (a) of section 905 of the amendment would restate the existing law (15 U.S.C. 905(a)) and make several changes. The words "or having reasonable cause to know" would be added to the provision which sets forth the unlawful act of making a false statement in connection with an application for a license or an exemption under the provision of the Federal Firearms Act.

The maximum penalty provisions for violation of the Federal Firearms Act would be increased from $5,000 to $10,000 and 2 years to 10 years to serve as a further deterrence to potential violators of the act. It is anticipated that this change will have the effect of increasing compliance with the act's provisions.

All sentenced violators are made eligible for parole "as the board of parole shall determine." Thus, the opportunity will be available to keep hardened criminals away from the law-abiding community for a substantial period of time, but at the same time provide flexibility to correctional officials so that they may work with those who show significant potential for rehabilitation.

Subsection (b)

Subsection (b) of section 905 of the amendment would restate subsection (b) of section 5 of the existing law (15 U.S.C. 905(b)) and make minor changes. The reference to ammunition would be deleted. The reference to the Internal Revenue Code would be changed to reflect the recodification of the code which was accomplished in 1954.

Section 906

Section 906 of the amendment would amend the Federal Firearms Act by adding a new section 11 which would provide that nothing contained in the act shall be construed as "modifying or affecting the requirements" of the provisions of the Mutual Security Act of 1954 which deal with "the manufacture, exportation, and importation of arms, ammunition, and implements of war."

Section 414 of that act gives authority to the President to control the export and import of arms, ammunition, implements of war, and technical data related thereto. It also requires all persons engaging in these transactions to register with the U.S. Government, pay registration fees, and secure import licenses for all such materials imported into this country.

Section 907

Section 907 of the amendment would establish the date at which time the amendments and changes made by the amendment become effective. The effective date would be "the first day of the sixth month beginning after the date of enactment" of the amendments. It is felt that this period of time will be sufficient for the promulgation and dissemination of any regulations necessary to implement the amendments to the act and would afford ample opportunity for comment of persons who would be affected by the regulations.

Section 908

Section 908 of the amendment would set forth a short title for the amendment, "Federal Firearms Amendments of 1968."

PART B—NATIONAL ACT AMENDMENTS

Part B of Amendment —— incorporates the provisions of S. 1854, a bill introduced by Senator Hruska and others to add the so-called destructive devices to the regulatory framework of the National Firearms Act of 1934.

Under Part B, the scope of the National Firearms Act (which now covers gangster-type weapons such as machineguns, sawed-off shotguns, and deceptive weapons such as flashlight guns, fountain pen guns, etc.) would be broadened to include destructive devices such as explosive or incendiary (1) bombs, (2) grenades, (3) rockets, (4) missiles, or (5) similar weapons, as well as large caliber weapons such as mortars, cannons, bazookas, etc. This would mean that such weapons would be subject to all provisions of the act and that persons engaging in business as importers, manufacturers, and dealers in such weapons would be required to register and pay special (occupational) tax. Also, the taxes applicable in respect of the making and transfer of weapons such as machineguns would be applicable with respect to the making and transfer of such destructive devices. Also, it would be unlawful for a person to possess a destructive device of this character unless such device was registered with the Secretary of the Treasury.

In addition, the bill contains certain additional strengthening and clarifying amendments to the National Firearms Act.

Section 911

This section would amend section 5848 of the Internal Revenue Code of 1954 which is the section of the National Firearms Act containing the definition of the weapons subject to the act (chapter 53 of the Internal Revenue Code is cited as the National Firearms Act).

Paragraph (a)

Paragraph (a) of section 911 would amend paragraph (1) of section 5848 of the Internal Revenue Code of 1954 to include destructive devices within the term "firearms," as used in the National Firearms Act. The effect of this is to make the provisions of the act applicable to a "destructive device" as that term is defined in paragraph (c) of section 1 of the amendment.

Paragraph (b)

Paragraph (b) of section 1 would amend paragraph (2) of section 5848 of the Internal Revenue Code of 1954 (which is the definition of "machinegun" contained in the National Firearms Act) to include any weapons "which can readily be restored to shoot" automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger.

"Readily restored to shoot" is intended to mean that only a simple mechanical operation is required to restore a weapon to a capacity of fully automatic fire. It is not intended to cover deactivated weapons that have had chambers closed and barrels securely welded.

The definition of machinegun would be further amended to include "the frame or receiver" of a machinegun.

The definition of machinegun is further amended to include "any combination of parts designed and intended for use in converting a weapon, other than a machinegun, into a machinegun." For example, so-called conversion kits are now made and sold for the purpose of converting certain rifles so that they will fire automatically or semi-automatically more than one shot, without manual reloading, by a single function of the trigger (i.e., converting such rifles into machineguns). However, under existing law, there is no effective way to control the manufacture and transfer of such kits. This change is designed to correct this situation by bringing such kits which will convert a weapon, other than a machinegun, into a machinegun.

Paragraph (c)

Paragraph (c) of section 911 provides for the renumbering of pargaraphs (3) through (11) as paragraphs (4) through (12), respectively, of section 5848 of the Internal Revenue Code of 1954, and for the insertion after paragraph (2) of such section of the code of 1954, and for the insertion after paragraph (2) of such section of the code of a new paragraph (3). The new paragraph (3) would insert a definition of the term "destructive device."

The definition of the term "destructive device" contained in paragraph (3) of section 5848 of the Internal Revenue Code of 1954, as contained in the bill is a new provision. It would bring under the coverage of the National Firearms Act any explosive or incendiary bomb, grenade, rockets having a propellant charge of more than four ounces, missiles, mines or similar devices.

The qualification on rockets is intended to exclude from coverage of the Act model rockets designed, built and launched under the auspices of the National Associtaion of Rocketry.

Devices which are not designed or redesigned or used or intended for use as a weapon would not be included, but coverage would be extended to large caliber weapons such as bazookas, mortars, cannons and the like.

The parenthetical exception contained in this definition is drafted in the same manner as the exceptions contained in title 26 U.S.C. section 5179(a) (relating to registration of stills) and section 5205(a)(2) (relating to stamps on containers of distilled spirits). Therefore, the decisions of the courts (*Queen* v *United States*, 77 F. 2d 780; cert. den 295 U.S. 755; and *Scherr* v. *United States*, 305 U.S. 251) to the effect that the Government is not required to allege or prove the matter contained in an exception would be applicable. Establishment by a person that he came within the exception would be a matter of affirmative defense. Thus, an explosive device shown to the designed and intended for lawful use in construction or for other industrial purposes would be excepted. However, if the device were designed or used or intended for use as a weapon, it would be subject to the provisions of the act.

A provision has been made in this definition that the Secretary may exclude from the definition any device which he finds is not likely to be used as a weapon. Examples of devices which may be excluded from his definition are devices such as Very pistols and other signalling devices and line-throwing appliances (required for commercial vessels by U.S. Coast Guard regulations) which may have been made from converted firearms. This provision also makes it possible to deal with any other comparable situation which may arise, such as old cannon or field pieces which are primarily of historical significance and with respect to which there is no reasonable likelihood that they will be used as weapons.

Paragraph (d)

Paragraph (d) of section 911 would amend paragraph (4) (as renumbered) of section 5848 of the Internal Revenue Code of 1954 by striking out the period at the end thereof and inserting the words ", and any such weapon which can readily be restored to firing condition." This represents a clarification of law and is consistent with the administrative construction of existing law.

Paragraph (e)

Paragraph (e) of section 1 would amend paragraph (5) (as renumbered) of section 5848 of the Internal Revenue Code of 1954. This paragraph contains the definition of the term "shotgun" and the change is identical with the change made with respect to the definition of "rifle" referred to in paragraph (d) above.

Section 912

The exemptions from payment of the "occupational" taxes provided in Section 5801 of the Internal Revenue Code of 1954 are extended to include importers, manufacturers, and dealers, all of whose business is conducted with, or on behalf of, the United States, or any of its departments, establishments or agencies.

Section 913

Paragraph (a) of section 913 would amend subsection (a) of section 5821 of the Internal Revenue Code of 1954 by increasing the number of application forms that must be completed to transfer a firearm under the Act from two to three. In addition, the revised paragraph (a) would require that the identification in an application to purchase a firearm under the Act be expanded to include the applicant's age. These are technical and conforming changes brought about by the changes in subsections (b) and (c) of section 913 below.

Paragraph (a) of section 913 would also amend subsection (b) of section 5814 of the Internal Revenue Code of 1954 by striking out "a copy" in the first sentence and inserting in lieu thereof "one copy", and by adding before the period language which would provide that at the same time a person forwards a copy of the order form regarding transfer of a firearm to the Secretary or his delegate, as required by subsection (b) of section 5814, he shall forward a copy of the order form to the principal law enforcement officer of the locality wherein he resides. This is intended as an additional requirement and not as a substitute for existing procedures regarding verification of the identity of the applicant.

Paragraph (b) of section 913 would amend subsection (e) of section 5821 of the Internal Revenue Code of 1954 by adding at the end thereof a new sentence providing that at the same time a person making the declaration in respect of making a firearm forwards the declaration to the Secretary or his delegate, he shall forward a copy thereof to the principal law enforcement officer of the locality wherein he resides. This provision is intended to be in addition to any other existing procedures, and not as a substitute for the procedures requiring verification of the identity of the person making the declaration.

Paragraph (c) of section 913 would amend section 5843 of the Internal Revenue Code of 1954 (which relates to the identification of firearms) by inserting at the end thereof a new sentence. This provision is intended to provide for the identification of a firearm (possessed by a person other than a manufacturer or importer) which does not bear the proper identification.

Section 914

Subsection (a) of Section 914 of the amendment would repeal the second sentence of section 5841 of the Internal Revenue Code. The first sentence of section 5841 imposes a registration requirement on all persons possessing firearms subject to the National Firearms Act. The second sentence is interpretative and by exempting from the registration requirement of that section persons possessing firearms held pursuant to lawful transfer, importation, or making, recognizes that such possession has been effectively registered by virtue of the approved transaction involved. It is felt that the striking of this qualifying sentence would eliminate a constitutional challenge of self-incrimination raised in certain criminal cases where an offense under this section was charged.

Although it is felt that the second sentence of section 5841 does not void the universality of the registration requirement, its elimination should make it more apparent that the provision contemplates registration by every person possessing a firearm coming within the purview of the Act.

The regulations could provide that the documents filed for a lawful transfer, making, or importation include the information required by the first sentence of section 5841. Thus, such a transferee, maker, or importer

could comply with section 5841 at the time of the transaction by which he lawfully obtained the firearm.

Subsection (b) of section 914 would amend section 5841 of the Internal Revenue Code of 1954 by adding at the end a new provision that no person required to register under the provisions of the chapter shall be prosecuted or subjected to any penalty on account of any information contained or disclosed in compliance with the chapter. The information required or disclosed shall not be used in evidence in any criminal proceeding in any court.

This provision was added to conform with the decision of the Supreme Court in the Haynes case.

Should any information disclosed or given pursuant to chapter 53 of the Internal Revenue Code of 1954 be false or a material misrepresentation of fact, no exemption from prosecution would be granted by subsection (b) of section 914 for any violation of the provisions of section 1001 of title 18 of the United States Code. Section 1001 deals with the making of false, fictitious or fraudulent statements or representations and contains maximum penalty provisions of not more than $10,000 and five years, or both.

Section 915

Section 915 of the bill would add a new section 5850 to the Internal Revenue Code providing that nothing in the Code should be construed as modifying or affecting any provision of the Federal Firearms Act, section 414 of the Mutual Security Act or section 1715 of title 18 of the United States Code.

This provision would not exclude from coverage any firearms within the definitions of chapter 53 of the Internal Revenue Code of 1954 which would also be included within the definition of "firearm" in section 1 of the Federal Firearms Act (52 Stat. 1250).

Section 916

Section 916 of the amendment would add two new sections to Chapter 53 of the Internal Revenue Code of 1954 respecting receipt and sale of National Firearms Act firearms.

New section 5856 would make it unlawful for any person to transport or receive in his state of residence a firearm purchased or otherwise obtained by him outside of his state of residence if it would be unlawful for him to purchase or possess such firearm in the State or political subdivision where he resides. It is intended that no person would be able to circumvent applicable state law or local ordinance by utilizing the channels of interstate commerce.

New section 5857 would prohibit any importer, manufacturer or dealer subject to the National Firearms Act from selling any National Act firearm to persons under 21 with knowledge or reasonable cause to believe that such person is under 21.

There is no reason why persons of immature years should be allowed to purchase automatic weapons, heavy field artillery and other National Firearms Act weapons.

S. 1854 as introduced by Senator Hruska prohibited possession of National Act weapons in the situations described in the two new sections, but these provisions were modified to reflect the comments of the Department of Treasury in a letter to the Chairman of the Senate Judiciary Committee dated July 6, 1967.

Section 917

Section 917 of the amendment would restate existing law (section 5861 of the Internal Revenue Code of 1954) and make two changes. First, the maximum penalty provisions for violation of Chapter 53 of the Internal Revenue Code would be increased from the present maximums of $2,000 fine and imprisonment for not more than 5 years, or both to a fine of $10,000 or more and imprisonment of not more than 10 years, or both.

All sentenced violators are made eligible for parole "as the board of parole shall determine." Thus, the opportunity will be available to keep hardened criminals away from the law-abiding community for a substantial period of time, but at the same time provide flexibility to correctional officials so that they may work with those who show significant potential for rehabilitation.

Section 918

Section 918 is a miscellany of comforming and technical changes.

Section 919

Section 919 of the amendment provides for an effective date six months after the date of enactment. In addition any person required to register a firearm under the provisions of section 5841 by reason of the amendments to section 5848 contained in section 911 of this part shall have an additional 90 days from the effective date of this part to register such firearm.

The amendment (No. 708) was ordered to be printed in the RECORD, as follows:

On page 80, beginning with line 15, strike out through line 4 on page 107 and insert in lieu thereof the following:

"TITLE IV—FIREARMS AMENDMENTS

"PART A—FEDERAL FIREARMS ACT AMENDMENTS

"SEC. 901. The first section of the Federal Firearms Act is amended to read:

"'That as used in this Act—

"'(1) The term "person" includes an individual, partnership, association, or corporation.

"'(2) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

"'(3) The term "interstate or foreign commerce" means commerce between any State and any place outside thereof; or between points within the same State, but through any place outside thereof; or within any possession or the District of Columbia.

"'(4) The term "firearm", except when the context otherwise requires, means any weapon, manufactured after the year 1898, by whatsoever name known, which will, or is designed to, or which may be readily converted to, expel a projectile or projectiles by the action of an explosive or the frame or receiver of any such weapon.

"'(5) The term "handgun" means any pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or capable of firing fixed cartridge ammunition, or any other firearm originally designed to be fired by the use of a single hand.

"'(6) The term "manufacturer" means any person engaged in the business of manufacturing or importing firearms for purposes of sale or distribution. The term "licensed manufacturer" means any such person licensed under the provisions of this Act.

"'(7) The term "dealer" means any person engaged in the business of selling firearms at wholesale or retail, or any person engaged in the business of repairing such firearms or of manufacturing or fitting barrels, stocks, or trigger mechanisms to firearms, or any person who is a pawnbroker. The term "licensed dealer" means any dealer who is licensed under the provisions of this Act.

"'(8) The term "pawnbroker" means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the repayment of money loaned thereon.

"'(9) The term "Secretary" means the Secretary of the Treasury or his designee.

"'(10) The term "indictment" includes an indictment or any information in any court of the United States or in any court of any State under which a crime of violence may be prosecuted.

"'(11) The term "fugitive from justice" means any person who has fled from any State to avoid prosecution for a crime of violence or to avoid giving testimony in any criminal proceeding.

"'(12) The term "published ordinance" means a published law of any political subdivision of a State which the Secretary of the Treasury determines to be relevant to the enforcement of this Act and which is contained on a list compiled by the Secretary of the Treasury which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this Act.'

"SEC. 902. Section 2 of the Federal Firearms Act is amended to read:

"'(a) It shall be unlawful for any manufacturer or dealer, except a manufacturer or dealer having a license issued under the provisions of this Act, to transport, ship, or receive any firearm in interstate or foreign commerce.

"'(b) It shall be unlawful for any person to receive any firearm transported or shipped in interstate or foreign commerce in violation of subsection (a) of this section, knowing or having reasonable cause to believe such firearm to have been transported or shipped in violation of said subsection.

"'(c) It shall be unlawful for any licensed manufacturer or licensed dealer to ship or transport, or cause to be shipped or transported, any firearm in interstate or foreign commerce, to any person in any State where the receipt or possession by such person of such firearm would be in violation of any statute of such State or of any published ordinance applicable in the locality in which such person resides unless the licensed manufacturer or licensed dealer establishes that he was unable to ascertain with reasonable effort that such receipt or possession would be in violation of such State law or such ordinance.

"'(d) It shall be unlawful for any person to ship, transport, or cause to be shipped or transported in interstate or foreign commerce any firearm to any person knowing or having reasonable cause to believe that such person is under indictment for or has been convicted in any court of the United States or in any court of any State of a crime punishable by imprisonment for a term exceeding one year or is a fugitive from justice.

"'(e) It shall be unlawful for any person who is under indictment for or who has been convicted of a crime punishable by imprisonment for a term exceeding one year or who is a fugitive from justice to ship, transport, or cause to be shipped or transported in interstate or foreign commerce any firearm.

"'(f) It shall be unlawful for any person who is under indictment for or who has been convicted of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice, to receive any firearm which has been shipped or transported in interstate or foreign commerce.

"'(g) It shall be unlawful for any person to transport or ship or cause to be transported or shipped in interstate or foreign commerce any stolen firearm, knowing or having reasonable cause to believe, such firearm to have been stolen.

"'(h) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any firearm or to pledge or accept as security for a loan any firearms moving in or which is a part of interstate or foreign commerce, and which while so moving or constituting such part has been stolen, knowing, or having reasonable cause to believe, such firearm to have been stolen.

"'(i) It shall be unlawful for any person to transport, ship, or knowingly receive in interstate or foreign commerce any firearm from which the manufacturer's serial number has been removed, obliterated, or altered.

"'(j) It shall be unlawful for any manufacturer or dealer knowingly to deliver, or cause to be delivered, to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed manufacturers or licensed dealers, any package or other container in which there is any handgun without written notice to the carrier that such handgun is being transported or shipped.

"'(k) It shall be unlawful for any common or contract carrier to deliver, or cause to be delivered, in interstate or foreign commerce any handgun to any person with knowledge or with reasonable cause to believe that such person is under twenty-one years of age or any firearm to any person with knowledge or with reasonable cause to believe that such person is under eighteen years of age.

"'(l) It shall be unlawful for any licensed manufacturer or licensed dealer to ship any handgun in interstate or foreign commerce to any person other than another licensed manufacturer or licensed dealer unless:

"'(1) such person has submitted to such manufacturer or dealer a sworn statement in the following form: "Subject to penalties provided by law, I swear that I am 21 years or more of age; that I am not prohibited by the Federal Firearms Act from receiving a handgun in interstate or foreign commerce; and that my receipt of this handgun will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the handgun will be shipped are ----------. Signature ---------- Date ------", and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance.

"'(2) such manufacturer or dealer has, prior to the shipment of such handgun, forwarded by registered or certified mail (return receipt requested) to (A) the local law enforcement officer named in the sworn statement, or (B) the official designated by the Governor of the State concerned under this subsection, a description of the handgun to be shipped (including the manufacturer, the caliber, the model, and type of such handgun, but not including serial number identification), and one copy of the sworn statement, and has received a return receipt evidencing delivery of such letter, or such letter has been returned to such manufacturer or dealer due to the refusal of the named law enforcement officer or designated official to accept such letter in accordance with United States Post Office Department regulations; and

"'(3) such manufacturer or dealer has delayed shipment for a period of at least seven days following receipt of the notification of the local law enforcement officer's or designated official's acceptance or refusal of such letter.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer or designated official along with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 3(d). For purposes of paragraph (2)(B), the Governor of any State may designate any official in his State to receive such notification for such State or any part thereof in lieu of the notification required by paragraph 2(A) and shall notify the Secretary of the name, title, and business address of such official and the Secretary shall publish in the Federal Register the name, title, and address of such official. Upon such publication, notification to the local law enforcement officers required under paragraph (2)(A) of this subsection will not be required for a period of five years from the date of such publication unless the request is withdrawn by the Governor of such State and such withdrawal is published in the Federal Register.

"'(m) It shall be unlawful for any licensed manufacturer or licensed dealer to sell or deliver for sale any handgun to any person other than another licensed manufacturer or licensed dealer who is not a resident of the State in which such manufacturer's or dealer's place of business is located and in which the sale or delivery for sale is made, unless such manufacturer or dealer has, prior to sale, or delivery for sale of the handgun, complied with the provisions of subsection (1) of this section.

"'(n) It shall be unlawful for any person in connection with the acquisition or attempted acquisition of a firearm from a licensed manufacturer or licensed dealer to—

"'(1) knowingly make any false or fictitious statement, written or oral; or

"'(2) knowingly furnish or exhibit any false, fictitious, or misrepresented identification with the intention to deceive such manufacturer or dealer with respect to any fact material to the lawfulness of the sale or other disposition of a firearm by a licensed manufacturer or licensed dealer under the provisions of this section.

"'(o) It shall be unlawful for any person to transport or receive in the State where he resides a firearm purchased or otherwise obtained by him outside the State where he resides if it would be unlawful for him to purchase or possess such firearm in the State (or political subdivision thereof) where he resides.'

"SEC. 903. Section 3 of the Federal Firearms Act is amended to read:

"'SEC. 3. (a) Any manufacturer or dealer desiring a license to transport, ship, or receive firearms in interstate or foreign commerce shall file an application for such license with the Secretary, in such form and containing such information as the Secretary shall by regulation prescribe. Each such applicant shall be required to pay a fee for obtaining such license as follows:

"'(1) If a manufacturer of firearms, a fee of $50 per annum;

"'(2) If a dealer (other than a pawnbroker) in firearms, a fee of $10 per annum, except that for the first renewal following the effective date of the Federal Firearms Amendments of 1968 or for the first year he is engaged in business as a dealer such dealer will pay a fee of $25;

"'(3) If a pawnbroker, a fee of $50 per annum.

"'(b) Upon filing by a qualified applicant of a proper application and the payment of the prescribed fee, the Secretary shall issue to such applicant the license applied for, which shall, subject to the provisions of this Act, entitle the licensee to transport, ship, sell, and receive firearms in interstate or foreign commerce during the period stated in the license. No license shall be issued pursuant to this Act—

"'(1) to any applicant who is under twenty-one years of age;

"'(2) to any applicant, if the applicant (including, in the case of a corporation, partnership, or association, any individual who, directly or indirectly, has the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is prohibited by the provisions of this Act from transporting, shipping, selling, or receiving firearms in interstate or foreign commerce;

"'(3) to any applicant who has willfully violated any of the provisions of this Act or regulations issued thereunder; or

"'(4) to any applicant who has willfully failed to disclose any material information required, or made any false statement as to any material fact, in connection with his application.

"'(c) The provisions of section 2 (d), (e), and (f) of this Act shall not apply in the case of a licensed manufacturer or licensed dealer who is under indictment for a crime punishable by imprisonment for a term exceeding one year: *Provided,* That such manufacturer or dealer gives notice to the Secretary by registered or certified mail of his indictment within thirty days of the date of the indictment. A licensed manufacturer or licensed dealer who has given notice of his indictment to the Secretary, as provided in this subsection, may continue operation pursuant to his existing license during the term of such indictment, and until any conviction pursuant to the indictment becomes final, whereupon he shall be fully subject to all provisions of this Act, and operations pursuant to such license shall be discontinued.

"'(d) Each licensed manufacturer and licensed dealer shall maintain such records of production, importation, notification, shipment, sale, and other disposal of firearms as the Secretary may by regulation prescribe.'

"SEC. 904. Section 4 of the Federal Firearms Act is amended to read:

"'SEC. 4. (a) The provisions of this Act shall not apply with respect—

"'(1) to the transportation, shipment, receipt, or importation of any firearms sold or shipped to, or issued for the use of (A) the United States or any department, independent establishment, or agency thereof; (B) any State or any department, independent establishment, agency, or any political subdivision thereof; (C) any duly commissioned officer or agent of the United States, a State or any political subdivision thereof; (D) any bank, common or contract carrier, express company, or armored-truck company organized and operating in good faith for the transportation of money and valuables, which is granted an exemption by the Secretary; or (E) any research laboratory designated as such by the Secretary; or

"'(2) to the transportation, shipment, or receipt of antique or unserviceable firearms possessed and held as a curio or museum piece.

"'(b) Nothing contained in this Act shall be construed to prevent shipments of firearms to institutions, organizations, or persons to whom firearms may be lawfully delivered by the Secretary of Defense or his designee, nor to prevent the receipt or transportation of such firearms by their lawful possessors while they are engaged in military training or in competitions.'

"SEC. 905. Section 5 of the Federal Firearms Act is amended to read:

"'SEC. 5. (a) Any person violating any of the provisions of this Act or any rules and regulations promulgated hereunder, or who makes any statement in applying for the license or exemption provided for in this Act, knowing or having reasonable cause to know such statement to be false, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine.

"'(b) Any firearm involved in any violation of the provisions of this Act or any rules or regulations promulgated thereunder shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5848(1) of said Code shall, so far as applicable, extend to seizures and forfeitures incurred under the provisions of this Act.'

"SEC. 906. The Federal Firearms Act is amended by adding at the end thereof the following new section:

"'SEC. 11. Nothing in this Act shall be construed as modifying or affecting any provision of—

"'(1) the National Firearms Act (chapter 53 of Internal Revenue Code of 1954); or

"'(2) section 414 of the Mutual Security Act of 1954, as amended (section 1934 of

title 22 of the United States Code (relating to munitions control)); or

"'(3) section 1715 of title 18 of the United States Code (relating to nonmailable firearms).'

"SEC. 907. The amendments made by this part shall become effective on the first day of the sixth month beginning after the date of enactment of this part.

"SEC. 908. This part may be cited as the 'Federal Firearms Amendments of 1968'.

"PART B—NATIONAL FIREARMS ACT AMENDMENTS

"SEC. 911. (a) Paragraph (1) of section 5848 of the Internal Revenue Code of 1954 is amended by inserting after 'or a machinegun,' the words 'or a destructive device,'.

"(b) Paragraph (2) of section 5848 of the Internal Revenue Code of 1954 as amended by inserting after the words 'or is designed to shoot,' the words 'or which can readily be restored to shoot,' and by striking out the period at the end thereof and inserting after the word 'trigger' the words ', and shall include (A) the frame or receiver of any such weapon, and (B) any combination of parts designed and intended for use in converting a weapon other than a machinegun, into a machinegun'.

"(c) Section 5848 of the Internal Revenue Code of 1954 is amended by renumbering paragraphs (3), (4), (5), (6), (7), (8), (9), (10), and (11), as paragraphs (4), (5), (6), (7), (8), (9), 10), (11), and (12), respectively, and by inserting after paragraph (2) a new paragraph (3) as follows:

"'(3) The term "destructive device" means (A) any explosive or incendiary (i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile, (v) mine, or (vi) similar device; (B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive, the barrel or barrels of which have a bore of more than 0.78 inches in diameter; or (C) any combination of parts designed and intended for use in converting any device into a destructive device. The term "destructive device" shall not include (i) any device which is not designed or redesigned or used or intended for use as a weapon, (ii) any device, although originally designed as a weapon, which is redesigned for use or is used as a signaling, pyrotechnic line throwing, safety, or similar device, (iii) any shotgun or rifle, (iv) any firearm designed for use with black powder regardless of when manufactured, (v) surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code, (iv) any device which the Secretary finds is used exclusively by the United States or any department or agency thereof, or (vii) any other device which the Secretary finds is not likely to be used as a weapon.'

"(d) Paragraph (4) of section 5848 of the Internal Revenue Code of 1954 (as renumbered) is amended by striking out the period at the end thereof and inserting the words ', and any such weapon which can readily be restored to firing condition.'

"(e) Paragraph (5) of section 5848 of the Internal Revenue Code of 1954 (as renumbered) is amended by striking out the period at the end thereof and inserting the words ', and any such weapon which can readily be restored to firing condition.'

"SEC. 912. Section 5803 of the Internal Revenue Code of 1954 is amended to read as follows:

"'SEC. 5803. EXEMPTIONS.

"'The tax imposed by section 5801 shall not apply to any importer, manufacturer, or dealer all of whose business as an importer, manufacturer, or dealer is conducted with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Secretary or his delegate may relieve any such importer, manufacturer, or dealer from compliance with any provision of this chapter with respect to the conducting of such business.'

"SEC. 913. (a) Section 5814 of the Internal Revenue Code of 1954 is amended by—

"(1) striking out the word 'duplicate' in the first sentence of subsection (a) and inserting in lieu thereof 'triplicate';

"(2) inserting before the period in the second sentence of subsection (a) thereof the following: 'and the age of such applicant'; and

"(3) striking out 'a copy' in the first sentence of subsection (b), inserting in lieu thereof 'one copy', and adding before the period in such sentence the following: 'and one copy to the principal law enforcement officer of the locality wherein he resides'.

"(b) Subsection (e) of section 5821 of the Internal Revenue Code of 1954 is amended by—

"(1) inserting before the period in the last sentence thereof the following: 'and the age of such applicant'; and

"(2) adding at the end thereof the following new sentence: 'At the same time that the person making the declaration forwards the declaration to the Secretary or his delegate, he shall forward a copy thereof to the principal law enforcement officer of the locality wherein he resides.'

"(c) Section 5843 of the Internal Revenue Code of 1954 is amended by inserting at the end thereof the following sentence: 'If a firearm (possessed by a person other than an importer or manufacturer) does not bear the identification required under this section, the possessor thereof shall identify the firearm with such number and other identification marks as may be designated by the Secretary or his delegate, in a manner approved by the Secretary or his delegate.'

"SEC. 914. (a) The second sentence of section 5841 of the Internal Revenue Code of 1954 is hereby repealed.

"(b) Section 5841 of the Internal Revenue Code of 1954 is further amended by adding at the end thereof the following: 'No person required to register under the provisions of this chapter shall be prosecuted or subjected to any penalty for or on account of any matter or information contained in any declaration or other statement required pursuant to the provisions of this chapter nor shall such information or matter be used as evidence in any criminal proceeding against him in any court; provided that no person shall be exempt under the provisions of this section from prosecution for any violation of the provisions of section 1001 of title 18 of the United States Code.'

"SEC. 915. (a) Subchapter B of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof a new section 5850 as follows:

"'Sec. 5850. Applicability of Other Laws.

"'Nothing in this chapter shall be construed as modifying or affecting any provision of—

"'(1) the Federal Firearms Act, as amended (15 U.S.C. 901–909); or

"'(2) section 414 of the Mutual Security Act of 1954, as amended (section 1934 of title 22 of the United States Code (relating to munitions control)); or

"'(3) section 1715 of title 18 of the United States Code (relating to nonmailable firearms).'

"(b) The table of sections in subchapter B of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof:

"'Sec. 5850. Applicability of other laws.'

"SEC. 916. (a) Subchapter C of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new sections:

"'Sec. 5866. Unlawful Receipt in Violation of State Law.

"'It shall be unlawful for any person to transport or receive in the State where he resides a firearm purchased or otherwise obtained by him outside the State where he resides if it would be unlawful for him to purchase or possess such firearms in the State (or political subdivision thereof) where he resides.

"'Sec. 5857. Unlawful Sale to a Person Under 21 Years of Age.

"'It shall be unlawful for any importer, manufacturer, or dealer, subject to the special tax imposed under section 5801 to sell any firearm to any person with knowledge or with reasonable cause to believe that such person is under twenty-one years of age.'

"(b) The table of sections in subchapter C of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof:

"'Sec. 5856. Unlawful receipt in violation State law.

"'Sec. 5857. Unlawful sale to a person under 21 years of age.'

"SEC. 917. Section 5861 of the Internal Revenue Code is amended to read as follows:

"'SEC. 5861. Penalties.

"'Any person who violates or fails to comply with any of the requirements of this chapter shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine.'.

"SEC. 918. (a) The proviso in paragraph (3) of subsection (a) of section 5801 of the Internal Revenue Code of 1954 is amended by striking out the words 'under section 5848(5)' and inserting in lieu thereof the words 'under sections 5848(6)'.

"(b) The proviso in subsection (a) of section 5811 of the Internal Revenue Code of 1954 is amended by striking out the words 'under section 5848(5)' and inserting in lieu thereof the words 'under section 5848(6)'.

"(c) Subsection (d) of section 5685 of the Internal Revenue Code is amended to read as follows:

"'(d) DEFINITION OF MACHINE GUN.—As used in this section the term "machine gun" has the same meaning assigned to it in section 5848(2).'

"SEC. 919. (a) This part shall take effect on the first day of the sixth month following the month in which it is enacted.

"(b) Notwithstanding the provisions of subsection (a), any person required to register a firearm under the provisions of section 5841 of the Internal Revenue Code of 1954 by reason of the amendments to section 5848 of such Code contained in section 911 of this part, shall have ninety days from the effective date of this Act to register such firearm, and no liability (criminal or otherwise) shall be incurred in respect to failure to so register under such section prior to the expiration of such ninety days."

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished junior Senator from Tennessee [Mr. BAKER] may proceed for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THREAT TO TAX-EXEMPT STATUS OF STATE AND LOCAL BONDS

Mr. BAKER. Mr. President, suddenly during the past few weeks the Senate has been presented with at least five major proposals which would either repeal outright or encourage the waiver of the longstanding immunity of State and local government activities from Federal taxation.

One proposal would terminate the exemption of State and local governments from the Federal excise tax on domestic air travel. Another would eliminate the Federal income tax exemption on industrial development bonds.

Most important are three administration bills which were introduced within the space of 1 week in mid-March. These proceed upon the theory that it is preferable to remove the exemption from the Federal income tax for holders of bonds issued by State and local governments if the Federal Government will guarantee the worth of the bonds and will subsidize State and local governments for the difference between the interest these governments would have to pay on taxable bonds and the lower interest rate paid on tax-exempt bonds.

These five bills, taken together, could have the most urgent and serious effects upon the financial integrity and autonomy of State and local governments. In particular, wholesale elimination of the tax-exempt status of State and local bonds in exchange for Federal guarantees and interest subsidies would be the most effective centralizing force introduced into our federal system since the enactment of the Federal income tax in 1913.

Despite the enormity of this package of proposals, representatives of State and local governments have not been adequately consulted on any of the measures.

Yet, piece by piece, the package is working its way through Congress.

H.R. 16241, which would repeal the exemption of State and local governments from the Federal excise tax on domestic air travel, was devised by the House Ways and Means Committee, reported on March 27, and sped through the House on April 4 under a rule permitting no amendments from the floor.

On March 6, the Treasury Department announced that it was reconsidering its policy of exempting, under section 103 of the Internal Revenue Code, the interest paid on municipal bonds issued to finance the purchase and/or construction of a facility to be leased by a private corporation. On March 28, the Senate reversed itself and overruled its Finance Committee by adopting the amendment of the Senator from Connecticut [Mr. RIBICOFF] to end the tax-exempt status of these so-called industrial development bonds. Since the Ribicoff amendment was offered on the floor of the Senate and was not considered by the House, the matter is now under consideration by a Senate-House conference.

Action has been taken only on one of the three guarantee subsidy bills. This is the Water Quality Improvement Act of 1968 (S. 3206) introduced in the Senate on March 14 by the distinguished Senator from Maine [Mr. MUSKIE] and on March 12 in the House (H.R. 15906, 15907). Hearings on the measure have already begun by the Senate Public Works Subcommittee on Air and Water Pollution and the House Committee on Public Works.

The Muskie bill would permit the Federal Government to contract to pay for, rather than actually pay for, its share of constructing sewage treatment plants. Under the contract, the Federal Government would pay annually to the public bodies the principal and interest payments representing the Federal share of the bonds sold by public agencies to finance sewage plant construction. Interest on these bonds issued by State and local governments would be taxable, but the Federal Government would guarantee the State and local share of the bonds issued for the treatment facility.

Another administration bill, introduced in the Senate on March 14 (S. 3165) and in the House on April 8 (H.R. 16514) repeals the tax exemption for municipal bonds which are used by rural communities to obtain loans from private lenders for the building of water and sewer systems.

The Secretary of Agriculture, in a letter March 11 to the President of the Senate, suggests that if the bill is enacted, the Department will begin to use authority which it already has, in effect, to pay local communities an interest subsidy for the difference between what it costs to sell taxable bonds for this purpose and what it would have cost to sell tax-exempt bonds.

Under this proposal, communities would apply to the Federal Government for loans to build water and sewer systems. The Secretary would make the loans at a rate he determines is the same as the community would have had to pay on tax-exempt bonds sold to private lenders. The Federal Government then would sell the communities' obligations to private lenders. Interest on these bonds would be taxable to the private lenders and the Federal Government would absorb the higher interest rate that would have to be paid on the taxable bonds. The Federal Government also will insure the loans in an attempt to make the bonds more marketable and decrease the size of the interest differential.

On March 14, the distinguished Senator from Wisconsin [Mr. PROXMIRE] introduced S. 3170, the most sweeping of all these proposals. This bill would encourage State and local governments to waive tax exemption on all their bonds sold to finance public projects. As a reward for those governments who do make the waiver, the Federal Government will, first, guarantee these bond issues against default, and, second, pay to the issuing body a 33-percent interest subsidy which should cover the increased cost to the issuer of selling taxable rather than nontaxable bonds.

The major support for the principle of replacing tax-exempt bonds with a system of Federal guarantees and interest subsidies seems to come from two quarters. The first is the Federal Treasury. Although the first Federal Income Tax Act in 1913 specifically recognized the immunity of interest income from securities issued by State and local governments, virtually every Secretary of the Treasury since its passage has tried to remove the exemption feature. The present Secretary seems to be particularly aggressive and effective in this respect. The desire of the Treasury is not surprising for the amounts in controversy are not piddling. The Bureau of the Budget estimated this year that State and local governments annually save between $1 and $2 billion on interest payments because of the tax-exempt feature of their bonds. The Bureau estimates also that the value of this deduction in terms of tax savings to individuals—which is not necessarily the same as the approximate loss to the Federal Treasury—is $4.7 billion.

The second source of support for this principle typically comes from the centralists, those who either advocate the continued transfer of decisionmaking from localities to the Central Government or those who, while concerned about the ill effect of centralism, are not so especially concerned that they rate it very high on the lists of priorities when other considerations come into play. The bait is also quite strong here. Bond financing is the only orderly way that States and cities can launch bold and innovative public projects completely on their own. And there are so many restrictions on the approximately $17 billion in Federal grant-in-aid money that is available that the recipient government may not be able to get grant help for what it, in its own opinion, thinks it must do. The centralists are quite correct that replacing the tax-exempt feature of bonds by means of Federal guarantees and subsidies will for the first time, put Federal strings on State and local capital financing.

My response ranges from serious questioning to outright rejection of these proposals. To begin with, the Treasury has not yet convinced me that the Constitution permits it to tax the securities issued for public purposes by State and local governments. Any legislation which attempts outright to repeal the tax exemption on State and local bonds assumes that Congress may, without constitutional amendment, tax the interest on a State and local bond based on the purpose of the issuance of such bond. This would at minimum raise the whole constitutional question of the power of Congress to penalize or reward the States by taxation or exemption, depending on whether the National Government approves or disapproves of the purposes of the bond issue. My assumption has always been that the reservation of powers to the States contained in the Federal Constitution's 10th amendment would preclude an assumption that the Central Government has the power to tax the States and their political subdivisions.

In addition, I seriously question the contention that removal of the tax exemption will produce more Federal revenues than is gained by the States and municipalities in reduced interest costs. Senator PROXMIRE and Secretary of Agriculture Freeman, arguing in support of their respective bills, even say that the Federal Treasury will gain by removing the exemption even if it guarantees all municipal bond issues and pays an interest subsidy on the difference between the cost of States and localities of selling taxable bonds and that of tax-exempt bonds.

Yet I had assumed that removal of the exemption would not necessarily produce more Federal revenues than it costs States and localities in higher interest

payments. The revenue gain might be more than, equal to, or less than the rise in interest costs, depending on the ultimate distribution of the State-local securities. A study recently submitted to the Air and Water Pollution Subcommittee of the Committee on Public Works has suggested that there would be decreased rather than increased Federal revenues if the tax-exempt status of State and local bonds were replaced with a system of guaranteed-subsidized taxable bonds.

Even if one were to acknowledge the validity of the constitutional and economic arguments of the Treasury, there still remains what is for me the critical policy question: What effect would replacing the tax-exempt bond with the guaranteed-subsidized taxable bond have upon the autonomy and financial integrity of State and local governments?

I believe that the very clear answer is that there would be disastrous effects if Congress has the statutory power to tax State and local bonds, it has inevitably the power to control State and municipal financing. Any State or local official familiar with the administration of the more than 400 Federal grants-in-aid knows that Federal guarantees and subsidies mean Federal strings, and that Federal strings mean national, not local, decisions and national, not local, control.

Indeed, the Ribicoff amendment which would eliminate industrial development bonds substantiates this point well. By listing purposes for which municipal bonds can still be issued tax-exempt, the amendment establishes a centrally determined honor roll of "good" local governmental purposes. With the use of guaranteed-subsidized taxable bonds, such a practice could become prevalent in the huge State and local capital financing market.

Another area into which the Federal Government would have to inject itself under the guarantee subsidy approach is the credit rating business. Senator PROXMIRE has estimated that of the 94,000 municipal bonds issued during the last 15 years, 74,000 were not rated. Should the Federal Government guarantee and subsidize taxable bonds for all the 74,000 unrated issues? If not, why not? And on what basis will the Government pick and choose?

In summary, then, I am opposed to the attempt in H.R. 16241 to repeal the exemption of State and local governments from the Federal excise tax on domestic air travel because I am not willing to acknowledge the power of the Central Government to tax the activities of States and their political subdivisions.

While I share the concern for the abuses and indiscriminate uses of industrial revenue bonds, I strongly oppose a total denial of this exemption to obligations which clearly and deeply affect the public interest.

I should not like to be misunderstood in my remarks about the three measures which contain one form or another of the guarantee subsidy approach. Many of the bills also contain intriguing proposals which, with modification, could strengthen the financial means of States and cities without impairing their autonomy. For example, Senator MUSKIE's imaginative proposal in S. 3260 that would permit the Federal Government to contract to pay for, rather than actually paying for, its share of the fight against polluted water deserves careful and serious attention. I object to the requirement of waiver of the tax-exempt status of the bonds by participating States and cities, and I object to Federal guarantees for the State/local share of the bonds. Apart from that, the proposal has great merit in that it would permit this country to move steadily forward in its urgent effort to make its waters clean at a time when the Central Government is in deep fiscal crisis.

I also share Senator PROXMIRE's concern that many smaller communities are arbitrarily denied access to regional or national capital markets because investors are unfamiliar with the credit rating of the municipality. Undoubtedly many of the 74,000 municipal bond issues which were unrated during the past 15 years deserved rating. Therefore, I am intrigued with the Senator's proposal for a national municipal data bank which could maintain financial statistics on American municipalities who choose to use the service. The data would be available to private investors and Federal agencies offering credit assistance programs. The cost of the bank could be borne by the participating communities.

State and local governments will issue about $150 billion in bonds between now and 1975 in order to build essential public facilities such as roads, schools, and hospitals. Many of these bonds will be used to put private capital to work to eliminate ghetto or rural poverty. Every effort should be made to see that smaller communities, which often need capital financing the most, have every reasonable opportunity to have access to the important capital markets.

So you see, in most of these proposals there are new ideas of substantial merit and of substantial value in the task of moving forward to solve the problems of America, but in no one of the proposals, I submit, must the tax-exempt bonding authority of State and local governments be offered up as a sacrifice. Much good can be salvaged from these and similar proposals, and I propose to try to do it. But there is no essential link between the destruction of local autonomy and progress in eliminating water pollution, strengthening municipal credit, and improving other areas. I think it is essential that we separate the good from the bad in these series of five measures which, taken together, constitute a concerted effort to destroy local fiscal autonomy.

Every State, county, and city official should be aware that these proposals concede the power of the Central Government to tax States and cities, that the power to tax is one of the effective forms of regulation, and that certainly no more powerful instrument for centralism of government could be devised.

I, for one, will continue to strongly resist any effort to tax the interest on securities issued for public purposes by State and local governments. I am among those who believe that the centralizing trends which have been running in America ever since the industrial revolution have gone quite far enough. I prefer to be a "pragmatic decentralist," who believes that our Nation needs a new direction in federalism that will encourage the placing of more power and responsibility with the people at local levels than with administratively appointed officials in Washington.

I hope that State and local officials everywhere will study these measures carefully and make certain they receive careful attention in Congress. Because of the seriousness of the dominant theory which runs through these five bills I have discussed today, I am requesting that the Senate Intergovernmental Relations Subcommittee, of which I am a member, conduct hearings on the question whether to replace the tax-exempt status of State and local bonds with a system of federally guaranteed and subsidized taxable bonds.

Mr. PROXMIRE. Mr. President, the distinguished junior Senator from Tennessee [Mr. BAKER], in the course of his speech on municipal financing, enunciated some criticism of a bill I have introduced.

My bill would end the present loophole in the law which enables people to invest in municipal bonds and escape Federal income taxes. I point out that today a man with $10 million to invest can put it in municipal bonds and receive $500,000 per year or $10,000 a week and pay nothing in taxes on that investment, not 1 cent. My bill would tend to reduce this, but it would benefit, I repeat benefit the municipalities.

The second part of my proposal is that it would be strictly permissive. The municipality would not be required to go the non-tax-exempt route. It would still be free to issue tax-exempt bonds if it could benefit in doing so, but if it were to do so, it would not be free to enjoy the various benefits set up in my proposal.

I compliment the distinguished Senator from Tennessee for the excellent and constructive statement he has made concerning the financing problems of State and local governments.

I certainly share his concern that our State and local governments are able to borrow funds for vital public necessities without the direct intervention and control of the Federal Government.

As I have said, a bill I introduced several weeks ago (S. 3170) was aimed at reducing the cost of borrowing to our State and local governments. The basic feature of the bill would be to provide a Federal guarantee and an interest-rate subsidy for those local communities who waived the tax-exempt status of their bonds. It should be emphasized, however, that this waiver would be strictly voluntary on the part of the State or municipality. If, for any reason, the State or local government chooses not to waive its tax-exempt status, it would, of course, be entirely free to continue to issue tax-exempt bonds.

The basic aim of my proposal is not to whittle away against the constitutional principle of tax exemption for State and local securities. The aim is not

to substitute Federal control for local control.

On the contrary, the purpose of my proposal is to make it easier for hard-pressed municipalities to borrow for their essential needs. According to hearings held before the Joint Economic Committee on the financing problems of several municipalities, in the next decade we will see unprecedented increases in State and local bond issues. The growing competition for funds from all sections of the economy makes it increasingly difficult for cities, and particularly our smaller towns, to borrow on reasonable terms.

My proposal would substantially increase the revenue for the Treasury—by several hundred million dollars a year—in the future on the basis of the present trend in the increase in municipal and State bonds. It would increase Federal revenue. It would also reduce the cost to the municipalities. Those who would probably suffer are those who now enjoy a tremendous free ride by virtue of being able to invest in municipal bonds with a very profitable yield of close to 5 percent, and pay no Federal income tax.

I am hopeful that my proposal will lead to lower borrowing costs for cities so that they can provide our citizens with the necessary hospitals, schools, and other public facilities needed for a growing population.

I certainly share the concern of the distinguished and able Senator from Tennessee that this proposal not result in Federal domination and control. I would be more than happy to work with him and other Members of the Senate and all other interested groups to insure that State and local governments preserve control over their financing.

THE "PUEBLO"

Mr. YOUNG of Ohio. Mr. President, American citizens have every reason to be disturbed and concerned over the fact that more than a quarter of a year has elapsed since the intelligence collecting, or spy ship, *Pueblo,* was boarded in international waters off North Korea and then towed into the port of Wonsan and the officers and crew of 82 made prisoners. This has been a humiliation for all Americans.

The truth is that in the entire history of the Republic, no warship of the U.S. Navy was ever captured by an enemy, except in combat and with guns blazing. This, in fact, is still the history and tradition of our Republic. The *Pueblo* was a Central Intelligence Agency and Joint Chiefs of Staff operation. In truth and fact this incident takes its place along with the Bay of Pigs invasion and U–2 incident as one more CIA blunder. True, a few officers and members of the crew were U.S. Navy personnel, but the majority were technicians, CIA operatives and scientists skilled and experienced in breaking codes and in knowledge of highly sophisticated secret apparatus. Their mission off the North Korean coast was ill timed to say the least. There was no sense nor urgency in this reckless act of surveillance at this time.

Now after 3 months time, and following propaganda showered upon Members of Congress allegedly even including letters apparently from many of those 82 Americans captured, we seem no closer to accomplishing the release of these men or the restoration of the *Pueblo* to the United States.

This is too important and too serious a matter to be left to a general and some colonels at Panmunjom.

In my judgment, our President and the Congress must do something dramatic and without delay to secure the release of the 82 Americans seized on the *Pueblo.* Whether we obtain the release of the *Pueblo* or have it towed out to international waters and then sunk is of little importance. To return to the United States the officers and crew is of the utmost importance. We must go all out to accomplish this. Furthermore, what is wrong with a great and powerful nation such as the United States of America stating through its President by messages to heads of state of Asiatic nations, including the Soviet Union, and also France and the United Kingdom that—

> It was an inexcusable mistake that our intelligence collecting ship, the *Pueblo,* was sent on a mission off the North Korean coast late last year and we regret that such a mission was undertaken and we specifically express our regret and apologize to the Democratic Republic of North Korea that our vessel intruded within 12 miles of the shoreline of North Korea when it evidently left international waters and floated for a short time within the coastal waters of North Korea, and give assurance that no such affront will be permitted by any of our vessels in the future.

I urge that the President appoint an extraordinary mission of five American civilians offering to send them to Panmunjon on the border of the demilitarized zone between North Korea and South Korea to displace altogether the present group of Army officers to manifest and demonstrate our hope that this entire controversy will be resolved without further delay. To attest to the importance of this mission, I suggest that the representatives of the United States should be Arthur Goldberg, Senators MIKE MANSFIELD, THRUSTON MORTON, and J. WILLIAM FULBRIGHT, and Mayor John Lindsay, all with full authority to represent the President of the United States and all of the citizens of this Nation.

Americans know the *Pueblo* was on an intelligence collecting or spy mission off the waters of North Korea. They now realize this was just another blunder of the CIA comparable to the Bay of Pigs incident, sending this ship to engage in surveillance 13 to 15 miles off the coast of North Korea at a time when we are on the defensive and gravely involved in Vietnam and suffering huge losses in men, airplanes, and helicopters. They know that the *Pueblo* could have performed its mission by drifting silently 15 or 20 miles off the North Korean coast and well out into international waters. However, all of us know, despite the instructions, there was a lapse of some 10 days admitted by the then Defense Secretary, Robert S. McNamara, during which, he said that we Americans "cannot say beyond a shadow of a doubt that no time during its voyage it entered North Korean waters." The then Defense Secretary stated:

> There was a period of radio silence appropriate to its mission from the period of roughly January 10 to January 21.

We lack knowledge during that period as to whether this ship intruded within the coastal waters of North Korea. We shall never know until the crew and skipper are released. It is readily understandable that our ship could have drifted or been carried by the current a few miles within the territorial waters of North Korea.

In that area there are a few small North Korean islands, very small hilltops in the ocean. No doubt they would be considered a part of North Korea and intruding within 12 miles of any little island would constitute a violation of North Korean territory. The Soviet Union has "trawlers" so-called, which are intelligence-collecting ships off our coast and throughout the world, and their spy ships outnumber ours. In their missions, as in our missions, it would destroy the effectiveness of the mission were warships to escort the Soviet trawler or one of their vessels of the *Pueblo* class, and also it would be unthinkable and destructive of the intelligence-collecting mission to have air cover.

Those Americans who have been urging us to invade Wonsan Harbor with our warships with their guns blazing and with our airpower must be necrophilists, or lovers of death. North Korea has a nonaggression pact or treaty with the Soviet Union. Their officials would immediately invoke performance of its treaty obligation by the Russians by reason of aggression by "Yankee imperialists." Also, North Korea has a first-class army and air force of some 500 planes, at least 70 of which are Mig–21's being equal to many of our planes. In addition to this fact, the United States is the most powerful nation in the world from a military and economic standpoint. Economically and militarily, North Korea is a small underdeveloped nation and of minor importance in the world.

Such rantings do not serve the best interests of the Nation. The restraint which President Johnson has shown since the *Pueblo* was captured has established a wise and prudent course to follow. Every effort must be made to resolve the present impasse peaceably by diplomatic conferences. What matters most is saving lives, not saving face. I strongly urge that the President without delay give consideration to the appointment of a top level mission to secure the release of the 82 Americans now held prisoner in North Korea.

THE MARCH ON WASHINGTON

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, an aspect of the so-called poor people's march on Washington that has not been much discussed is the unjustifiable additional burden it will throw on

many already overtaxed municipal facilities of our Nation's Capital and surrounding metropolitan area.

Budgetary costs, when considered in connection with human needs, may not seem to many people to be of any consideration, or at least not of much consideration, but they necessarily must be of great consideration in view of the recent very costly riots that were staged in the Nation's Capital and in view of the already difficult normal revenue needs which confront the Nation's Capital, entirely aside from the riots, and, additionally, because of the continuing costs arising from a number of arsons which have occurred since the riots.

It is my belief that the conferences which will be held today and tomorrow and possibly on Wednesday by the Reverend Ralph Abernathy, who heads the Southern Christian Leadership Conference, and other conferences which may be planned with Government officials in connection with the so-called poor people's campaign can achieve more in an effective and positive way than any prolonged march and demonstration could possibly hope to achieve.

I have heretofore urged that attempts be made by Federal authorities to seek an injunction to prevent the march and the demonstration.

I certainly find no fault with the conferences being held by the group that is already in Washington. These conferences could be productive of some good, for the Federal Government has an obligation to do everything that it can do to help the poor people of this country improve their lot in life. I favor everything that can feasibly and practically be done by the Federal Government to effectively combat poverty.

I call attention, as I did last week on the Senate floor, to the fact that the Federal Government is already spending huge sums of money, running into the billions of dollars, for programs which are calculated to improve the lot of poverty-stricken families throughout America. Many of these programs have produced good results, and have proved to be effective and wise programs.

On the other hand, there are costly programs which have not proved their effectiveness, which have not been properly administered or run, and which are not only costly but also wasteful, to some extent at least.

In my judgment, much remains to be done to improve these presently ongoing programs to the point that they might be more efficiently run and might more effectively reach the poor, for whose benefit they were originally intended.

So there is a great question in my mind as to whether or not the Federal Government would be wise in taking steps at this point to initiate vast, new, costly Federal programs—even if it could afford them—when at present we have many costly programs underway, and at a time when we need to emphasize and concentrate upon the improvement of the already existing programs.

My opinion is that the march that has been planned will not bring about the improvements that are being sought, whatever those improvements are, whatever the programs are—they remain largely unclear, if we are to judge by press reports—and that instead of helping the poor, attitudes may harden against the demonstrators because of problems that will be created by their converging upon the city of Washington. The proposed demonstration is highly impractical, and in my judgment it constitutes the wrong way to go about helping the Nation's poor.

The subcommittee of which I am the chairman has a direct responsibility for providing appropriations for the operation of the District of Columbia agencies and departments, and the various programs that are administered by those departments and agencies. I am concerned regarding, among other things, the greatly expanded costs which will be added to the District of Columbia budget—wasteful additions which cannot do the poor from distant places any good, but which may well penalize the poor who already live in the city of Washington.

It is impossible to estimate what the costs to the city of Washington and adjoining counties and to the Federal Government will be; but, as chairman of the Senate Appropriations Subcommittee on the District of Columbia, I have been in conference with such departments of the District government as the Health Department, the Welfare Department, the Metropolitan Police Department, and the Fire Department. All of these departmental officials foresee extra expenses and possibly very thorny problems as a result of the announced camp-in if it is carried out as planned.

One of the gravest problems, and one of the costliest, could occur in the area of public health. Sewerage and water facilities are lacking in many of the places that have been suggested for the tent city. Refrigeration of food during the hot summer months can be a problem, and the lack of refrigeration could bring on an outbreak of gastro-intestinal diseases. Communicable diseases will be an especially difficult problem to deal with, since many persons recruited from substandard economic areas may be carriers of disease, and all, or most or at least many, of these persons may have to be immunized. An outbreak of typhoid or dysentery, or even such killer diseases as spinal meningitis—all of which are spread and flourish under such primitive conditions as are envisioned—not only could seriously endanger the health of the poor people who are brought here, but the health of citizens of the metropolitan area as well.

Local hospitals already have heavy cost burdens, and they care for many indigent patients. I call attention to the fact that during the present fiscal year, of the patients in the District of Columbia General Hospital, 94 percent are indigent; and it might be worthy of Dr. Abernathy's attention that at least 80 percent of these are Negroes. The cost to the District of Columbia of indigent patients will be close to $24 million in fiscal year 1968.

It will be difficult to provide the medical care that may be needed by demonstrators recruited from other parts of the country, which care is highly costly, in view of constantly rising hospital and medical care expenses.

Taken all together, the public aspects of dealing with hundreds or thousands of poor people—and I am talking about hundreds or thousands of additional incoming poor people—providing adequate water for drinking, cooking, and bathing; providing adequate sewerage facilities, providing refrigeration; providing immunization against communicable diseases; and providing hospitalization, as all these may be required, will place an additional heavy financial burden on the already overburdened metropolitan health facilities.

Furthermore, many of the people who are expected to come to the Nation's Capital are already on welfare, and their welfare status in the District of Columbia is still a matter of conjecture and question in many ways. Present welfare regulations may make these incoming persons ineligible for various types of assistance. This is an unsure area, and the Welfare Department at the present time is attempting to secure some guidance from the Corporation Counsel in interpreting the welfare regulations, particularly in light of some of the recent court rulings, to determine whether or not the poor people who come into the city from other parts of the country as a part of the march and demonstration will be able to qualify for various types of assistance while here.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. I ask unanimous consent to proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. In any event, it is presumed that the District government may be called upon to find some way to take care of some of these people. If this does occur, it would throw a very heavy strain on available sources, to the possible detriment of present welfare recipients in the city.

The care of infants and children, many of whom it is said will be brought here, will also pose a problem of unknown dimensions for the Department of Welfare—and, of course, at additional cost. The Department of Welfare already is taking care of a heavy caseload of poor.

I am afraid that some well-intentioned people and groups have endorsed the so-called poor people's campaign without fully considering many of the facts and problems that will be involved. Doing away with poverty in the United States would be a splendid thing for everyone, if, indeed, it were possible. But what is planned here may well compound rather than relieve the problems of the poor, especially the poor in the Nation's Capital. So, I would urge that the leaders of the demonstration make the wise decision to call off the march and demonstration.

I also urge that the top officials of this administration make every effort to dissuade the leaders of the proposed march from continuing with their plans. As I have indicated, I have urged previously that the Justice Department at least put forth the effort to seek an injunction to stop the leaders of the march from proceeding with their plans. Thus far, there is no evidence that this will be under-

taken. But it is not too late for the leaders of the administration to apply every ounce of persuasion that they are capable of bringing to bear upon the leaders of the march and demonstration, to urge them to drop their plans and call off the march, and that to do otherwise will not really be in the best interests of the poor people and that it can compound the problems of this city and other cities through which the march will travel and thus create nationwide resentment toward the leaders of the march.

If Mr. Abernathy persists, it certainly is going to place an additional burden upon the already overtaxed and undermanned Metropolitan Police Department. It can inconvenience the citizenry of this community and of the metropolitan area. It certainly will have an adverse impact upon the revenues of this city, by virtue of the effect it already is having and will continue to have upon visiting tourists and conventions to the city.

It will constitute an additional heavy burden upon the taxpayer, not only in the city, but the taxpayers throughout the country as well, in that they will have to pick up the bill for the extra health and welfare and police protection costs.

I have not even mentioned the inherent potential for explosive violence that the demonstration contains, and I will not labor the point at this time; for many responsible persons in and out of the Government—among them concerned and thoughtful members of the Negro race—have expressed their concern.

Mr. President, it is now all too well known that the black power revolutionaries and others who would take advantage of every opportunity offered stand ready, as they always stand ready, to loot, burn, and destroy at the slightest provocation. This city has suffered greatly. Riots most hurt the poor in many ways.

An affluent country has an obligation to do all it can to help the poor out of poverty. That is the way it must be done.

But this ill-conceived march carries the potential for doing more harm than good, and it can be very injurious to the Nation's Capital.

Moreover, our Government, by failing to take action to prevent this march and the planned demonstrations from occurring, will encourage new marches and new demonstrations in the future, the ever-increasing financial burdens to be borne by the harassed and suffering taxpayer, Mr. John D. Citizen, and a dangerous precedent for marches on the Nation's Capital—with the District of Columbia and Federal Governments acting virtually as silent partners by shouldering inordinate cost burdens—will have been established.

And, even more important, the immediate and longrun impact upon law and order and citizen respect for government will have suffered incalculably.

Mr. President, I ask unanimous consent to have printed in the RECORD sundry newspaper articles which have a bearing on the proposed march, and make reference to the costly riots which have recently been visited upon this city.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 28, 1968]

NEGRO SURGEON BLASTS POOR PEOPLE'S MARCH

(By Jim Hoagland)

The head of one of the Nation's largest Negro self-help organizations castigated the Poor People's Campaign yesterday and proposed as an alternative a ten-year economic development program for black businesses.

Challenging the Campaign's leader, the Rev. Ralph Abernathy, to debate him "in the ghettos across the Nation," Dr. Thomas W. Matthew said the Campaign's demands for more welfare and a guaranteed income would "perpetuate slavery."

Dr. Matthew, a New York neurosurgeon, is president of National Economic Growth and Reconstruction Organization (NEGRO), which operates 15 enterprises across the country, including a general hospital in New York and a bus line in the Watts section of Los Angeles.

"The time has come for black Americans to face reality," Dr. Matthew, a Negro, told about 50 former officers of the national Junior Chamber of Commerce meeting here. "The pie in the sky promises of the Poor People's March must be exchanged for bread on the table today."

ASKS END TO RIOTING

Calling for a moratorium on demonstrations and riots, he said the riots "have gotten the point across . . . White Americans have begun to understand the problems and ask how they can help."

He dubbed the Poor People's effort "operation overkill" and likened it to an inexperienced nurse who wakes up a sleeping patient "to give him a knockout pill."

Dr. Matthew also said he would begin a "Nitty Gritty School of Economics" on Washington street corners to teach basic facts of finance to ghetto dwellers and to compete with the Poor People's Campaign.

"Our grandparents had a guaranteed annual income. They called it slavery. A guaranteed income would make blacks more dependent. We should know better," he said.

Estimating that the Campaign may involve $500,000 in expenses, Dr. Matthew said that that much money invested in his organization "could supply 20,000 permanent jobs for the hard-core unemployable."

LOAN PROGRAM CITED

He said he would propose to Congress a plan that would provide 100-year loans from the Federal Government at 2 per cent interest, 20-year loans from private industry at 4 per cent and five-year loans from foreign investors at 6 per cent. All loans would be guaranteed by the Government.

Dr. Matthew also called on the Government to commit 2 per cent of all its contracts with private industry to NEGRO, his group, which would underbid the lowest private bid on the contract.

NEGRO, which was begun about 11 years ago, is supported by the earnings of its 15 industries and the sale of bonds in denominations from a quarter to $10,000. It has about 700 full-time employes, 20 per cent of whom are white.

The organization also runs industrial clinics that train unskilled workers for its industries. Dr. Matthew, emphasizing that NEGRO has refused grants from the Government or foundations said that about 80 per cent of NEGRO's workers had previously been on relief on one form or another.

[From the Washington Evening Star. Mar. 29, 1968]

KING AIDES STICK TO DISTRICT OF COLUMBIA CAMPAIGN, WILL REVIEW PLANS

(By Charles Conconi)

MEMPHIS, TENN.—Top aides of the Rev. Dr. Martin Luther King Jr. said today that despite yesterday's violence here there are no plans to cancel the Poor People's campaign in Washington in April and May.

All agreed, however, that the strategy of the march, which is expected to bring several thousand persons to the District, will have to be reassessed and revised.

The Rev. Ralph D. Abernathy, a vice president of the Southern Christian Leadership Conference and one of King's chief aides, said that King's previously scheduled appearance this Sunday at the Washington Cathedral still was a possibility. His planned trip to the District today was canceled yesterday, as was a tour through Virginia tomorrow.

(In Washington, the Rev. Walter E. Fauntroy, head of the SCLC there and vice chairman of the City Council, said he was disturbed over the Memphis situation but was emphatic in saying the Washington campaign will not be called off.

WON'T HAPPEN HERE

(Fauntroy said he was anxious to get to the bottom of the Memphis events "because we're all determined that kind of thing won't happen here. I want to know what happened, so it won't happen on the Poor People's Campaign."

(Fauntroy acknowledged the big question now is whether extremists would take over the demonstrations in Washington and turn them into a riot, and said the matter will be of primary concern in SCLC conferences in Atlanta later today.

("I can almost promise you that won't happen here," he stressed. He said, "We will be ready. But that's what we will have to take up over the next few days.)

The embarrassed and distraught King, leader of the Southern Christian Leadership Conference, spent most of yesterday in seclusion in his motel room after violence broke out during the march he was leading.

HAD NO THOUGHT

"King had had no thought that anything like this would happen," his aide, Bernard Lee, explained.

Standing in the open doorway of King's hotel suite, Lee said that King "was greatly disturbed. It's the first time he has ever been in one (demonsration) that has turned to violence."

It was 8:30 p.m. and Lee said King could see no one because he was sleeping. Inside the room, Abernathy was sitting on the couch, the television was blaring and three cans of cola were on the coffee table.

The SCLC leaders had flown in yesterday to give support to the Memphis sanitation workers' strike, he explained. They had planned to leave for Atlanta later in the day and then make their Washington tour today.

MORE ON OUR TOES

Today's meeting in Atlanta SCLC headquarters was called to evaluate plans for the planned Washington demonstrations which are scheduled to begin April 22.

"This incident has put us even more on our toes in terms of some of the possibilities for the Washington campaign," Lee said.

One thing SCLC will probably do, Lee explained, is to train more march marshals for the demonstration and to give them a more intensified training in the techniques of keeping order.

SCLC had planned to use 1,000 marshals during the Washington demonstrations which are scheduled to begin with a core of 3,000 poor people and build as the campaign progresses.

Lee said he believes that probably "2,000 marshals will be a good safety valve."

Over the last couple of weeks, however, SCLC leadership across the country has been questioned about the lack of workshops on non-violence and training programs for the marshals. Lee confirmed that only one workshop, last weekend in Philadelphia, has been held so far to train marshals for the Washington demonstrations.

With his silver gray and black tie pulled loose from the open collar of his blue shirt,

Lee admitted he knew there was fear that King's demonstration in Washington could breed violence.

YESTERDAY DIFFERENT

Over the last month, King and his top aides have been traveling around the country maintaining that SCLC advocates nonviolence only and that "there has never been a riot at a King-led demonstration . . . at least on the part of the marchers." But yesterday was different, and Lee acknowledged that.

Lee complained that the march yesterday was not SCLC-planned or organized and was without marshals or the "absolute control" that SCLC enforces. "Things were not done in the fashion SCLC is accustomed to doing," he said.

[From the Washington Post, Mar. 30, 1968]

DISTRICT MARCH IS STILL SET DESPITE RIOT; STRIKERS IN MEMPHIS PROTEST PEACEFULLY—MISTAKES WON'T RECUR HERE, KING AIDE SAYS

(By Willard Clopton, Jr., and Robert C. Maynard)

Top aides to the Rev. Dr. Martin Luther King Jr. said here yesterday that the Poor People's Campaign will begin in Washington as scheduled next month despite the violence that erupted during a King-led march Thursday in Memphis.

"It is absolutely inconceivable that we would stop now," said the Rev. Walter E. Fauntroy, Dr. King's local representative. "The issues are far too important."

The Rev. Andrew Young, executive vice president of Dr. King's Southern Christian Leadership Conference, said that mistakes made by both demonstrators and police caused the Memphis rioting, but he said he believed the same mistakes can and will be avoided here.

The Memphis disturbance brought new demands in Congress that the Poor People's Campaign be called off. But Dr. King, speaking in Memphis said the mass "camp-in" will begin as planned on April 22.

He said he could give no assurance that there would be no violence here, but said, "I can guarantee our own demonstrations will be nonviolent." It was stressed that Dr. King merely lent his presence to the Memphis demonstration and that neither he nor SCLC had any part in planning it.

Mr. Young said an investigation of the Memphis outburst had disclosed that:

The rock-throwing and window-breaking that touched off the violence was done by a group of 20 to 30 youths of high-school age called the "Invaders."

The youths had acted to embarrass the demonstration leaders, who had failed to give the young people a part in planning the protest.

The SCLC had neglected to take its usual precaution of posting a large number of marshals to guard against violence.

The Memphis police, instead of going after the window-breakers, had instead moved at once against the great mass of nonviolent demonstrators.

Mr. Young acknowledged the errors by the demonstrators but said the chief mistake was made by the police, whom he described as "ignorant and racist."

His belief in a peaceful Washington campaign rests, he said, on his confidence in SCLC's careful planning and his respect for District Public Safety Director Patrick V. Murphy, whom he called "an intelligent law-enforcement officer—and you don't have that in Memphis."

Among members of Congress who questioned whether the Campaign should take place was Sen. Edward W. Brooke (R-Mass.), the Senate's only Negro member.

Dr. King faces "a difficult task" in keeping the Campaign nonviolent, Brooke said, adding: "Under the present inflammable conditions . . . one little spark—some irresponsible kid—could set it off."

He said civil rights leaders should avoid "exciting and inciting people while we're making progress." noting as an example of progress the Senate's recent passage of a civil rights bill with Federal open-housing provisions.

Sen. Robert C. Byrd (D-W. Va.) called King a "self-seeking rabble-rouser" whose actions "undoubtedly encouraged" the Memphis flareup. He said the Justice Department should seek a court order to block any march led by Dr. King. (Mr. Young called this "a Fascist proposal" and said Congress has no right to deny the poor their right to free assembly.)

Sen. John Stennis (D-Miss.) said experience has shown that it is best to "stop marchers at the city limits." He suggested that Dr. King lead only a small delegation of the poor to Capitol Hill to "symbolically present their case."

Rep. Joel T. Broyhill (R-Va.) said there can be no effective control of a large group of demonstrators and suggested that National Guardsmen prevent any large assembly that threatens trouble. Dr. King, he said, is incapable of guaranteeing a peaceful march here, and he can be sure Congress will not legislate under threats from an unruly looting mob."

At the same time, the Campaign drew new expressions of support from Washington's religious community and an optimistic statement by Mayor Walter E. Washington.

Priests of the Catholic Archdiocese of Washington, joined by Archbishop Patrick Cardinal O'Boyle, gathered at St. Patrick's Academy, 924 G st. nw., yesterday to hear Mr. Young discuss plans for the Campaign.

In a later statement, the priests endorsed the Campaign's "legitimate goals" and its "nonviolent approach" and expressed their desire to respond to "the human needs" involved.

In addition, a spokesman for the Council of Churches of Greater Washington renewed that group's pledge of support for the Campaign, in spite of the "unfortunate" events in Memphis.

Mayor Washington said he believed the city's new job-training and summer recreation programs "are an alternative to throwing rocks" and that he did not expect any violence here this summer. He added that Safety Director Murphy "is making definite plans . . . to protect not only our own citizens but . . . 16 million visitors."

One step by the Metropolitan Police Department was to send Deputy Chief Raymond Pyles, head of special operations, and Capt. Theodore Zanders of the Civil Disturbance Unit, to Memphis, where they observed actions by the police and National Guard units.

In an appearance yesterday before the Joint Strategy and Action Committee, an interracial ministerial group, Mr. Young raised the possibility that the campaigners might camp on the Mall.

"If we do and the Park Department feels it will hurt the grass, Congress will just have to appropriate money for more grass, since they won't appropriate money for housing poor people," he said.

He, Mr. Young, said the initial force of 3000 demonstrators, expected here by May 3, will consist of 15 groups of 200, originating in nine U.S. cities and six rural areas. Each group of 200 will be monitored by at least 20 trained marshals, he said.

He identified the nine cities as Chicago, Detroit, Cleveland, Pittsburgh, Boston, New York, Newark, Philadelphia, and Baltimore, and said the rural areas were in Mississippi, Louisiana, Georgia, North and South Carolina and Virginia.

Mr. Young said Dr. King and a small delegation will arrive April 22 to petition Congress for action to relieve the condition of the Nation's poor. Since it is doubtful that Congress will respond to the demands, he said, the delegation members expect to return home and issue a call to their supporters for the trip to Washington.

The demonstrators will then close in on Washington by whatever means of travel is available, picking up marchers as they go.

While Mr. Young spoke with assurance of a nonviolent Campaign, another clergyman had his doubts.

The Rev. Albert B. Cleage Jr. of the Central United Church of Christ, a Detroit religious black nationalist, told the press here he doubted that Dr. King could "maintain a nonviolent demonstration in Washington for half a day."

Asserting that the United States is in for a long period of racial violence, Mr. Cleage predicted that the King march would turn violent because these are explosive times.

"Either a cop will do something foolish or somebody will," Mr. Cleage said.

The Memphis violence left the King organization badly shaken. In a remark to a reporter, one key aide said:

"We were thrown for a 30-yard loss."

[From the Washington Post, Apr. 9, 1968]

BYRD WANTS TROOPS TO STAY: POLICE-AID PACTS SUGGESTED

(By Elsie Carper)

Congress reacted yesterday to the weekend riots in Washington with a call for Federal troops to remain in the city, a demand that looters be punished and praise for the city's policemen and firemen.

The Senate also passed and sent to the House a bill that would permit the city to enter into agreements with nearby Maryland and Virginia jurisdictions for the exchange of police in emergencies such as occurred over the weekend. A similar arrangement already in existence allowed suburban fire departments to come into the city during the height of the riots.

"Sen. Robert C. Byrd (D-W. Va.), chairman of the Appropriations Committee's Subcommittee on the District, asked for Federal troops to stay in the city 'indefinitely.'

" 'If Washington is to be subjected to a summer campaign of demonstration, as has long been planned," Byrd said, 'the presence of Federal troops will be reassuring.' "

ARREST POWERS PLANNED

In a speech in the Senate, Byrd said that during the three days of arson and looting he had been in constant touch with Mayor Walter E. Washington, the Justice Department and the White House urging that the military be used not as just a show of force but to make arrests.

"I stated that business establishments should have the utmost protection available and that only a firm attitude on the part of the military and the police department, using whatever force was necessary in order to make and maintain arrests, would discourage and convince the rioters that they were pursuing great risks in continuing to loot and destroy," he said.

CURFEW "EFFECTIVE"

Byrd also said that he was informed by the White House that the curfew on Saturday was moved up from 6 p.m., to 4 p.m., because "there was a kind of intra-anger growing among many of the colored people because some of their own houses were being destroyed by rioters, and that the burning of stores and other business places would mean a loss of jobs. . . . There was some fear that this restiveness could develop into some real trouble among the Negroes themselves."

The Senator said that he toured the riot-torn areas in the early hours of Sunday morning and found the "curfew was very effective."

Statements by other Congressmen indicated that a number of them had made personal inspections during the period in which parts of the city were on fire.

"I hope the troublemakers, looters and

other lawbreakers will not be given a mere tap on the wrists and turned loose, but will be dealt with severely," Byrd said.

He added that "most citizens, Negro and white, were sickened" by the assassination of the Rev. Dr. Martin King Jr. But the "carnival spirit" of the looting "had no logical connection whatsoever with Dr. King's death."

Sen. Wayne Morse (D–Ore.), chairman of the Senate District Subcommittee on Public Safety, praised the Police Department for keeping violence in check and the death toll down by "treating human beings with restraint."

SHINING EXAMPLE

"The speed in which looters were arrested and brought before the police courts is a shining example of the efforts of the Metropolitan Police Department and the judicial system in the District to deal with such problems," Morse said.

"I only hope and pray that we can learn from these last several days that rioting and looting is senseless and that, when it does occur, it must be dealt with firmly and in such a way that bloodshed is kept at a minimum. The D.C. policemen, firemen and the Federal troops have given us this example."

Senate District Committee Chairman Alan Bible (D-Nev.), who said that he, too, had toured the riot area, commended Mayor Washington, special assistant Cyrus R. Vance and other officials "for the outstanding job they have done in the most difficult time this city has endured in many, many years."

TROUBLE CAME QUICKLY

"I hope that those who feel that certain aspects of the problem could have been handled differently, will understand and recognize that efforts to cope with it began immediately and that every resource of the District was brought to bear without delay," Bible said.

Rep. Charles McC. Mathias (R-Md.), a member of the House District Committee, said he had spent a number of hours Friday and Saturday in the riot-torn areas. Firemen, he said, repeatedly risked their lives, and police acted with bravery and restraint in the capture of desperate and violent armed men."

Two other members of the House District Committee Rep. Thomas N. Abernethy (D.-Miss.) and Basil L. Whitener (D-N.C.) blamed the coddling of lawbreakers for the weekend of trouble.

Rep. Roy A. Taylor (D-N.C.) said it appeared that "the police made little effort to stop looters or recover merchandise that was being carried out, and permitted felonies of violence to be committed in their presence without so much as firing a warning shot, thereby making a carnival out of the riot and mockery out of law enforcement."

LOOTING CONDONED

Another riot area visitor, Sen. Strom Thurmond (R-S.C.) said that criminals have used the assassination of Dr. King as an excuse to take the law into their own hands. "Unfortunately, the looting and burning was apparently condoned by large numbers of the populace in which it occurred," he said.

Rep. William Jennings Bryan Dorn (D-S.C.) said he was shocked that some of the participants in the rioting were Federal employees and introduced legislation that would prohibit anyone convicted of civil disobedience from working for the Federal Government for three years.

"If we are not safe in our own homes and in our businesses and if our property cannot be protected, we are in a state of anarchy," Dorn said.

Sen. Thomas J. Dodd (D-Conn.), who visited the riot area Thursday night said the violence was a result of the "uncivilized approach this country takes to the sale and possession of firearms. Unless Congress acts to regulate guns, Dodd said that the weekend of riots "is a sample of what is to come."

[From the Washington Post, Apr. 26, 1968]

COST OF RIOT TO CITY MAY TOP $5 MILLION

(By Peter Milius)

Washington's riot cost the city government between $5 and $6 million in overtime, extra services and lost tax revenue, Deputy Mayor Thomas W. Fletcher estimated yesterday.

Fletcher, who disclosed the figure during a House District Committee hearing on the city's $38 million fiscal 1969 revenue bill, emphasized that the riot estimates are preliminary. "That's the very worst it could be," he said.

The 90-minute hearing switched from the subject of revenue to the riot several times. At its end, Chairman John L. McMillan (D-S.C.) told Mayor Walter E. Washington that he hoped the Committee could come up with a money measure that will meet the city's needs.

At the same time, he cautioned that the Committee may make some changes in the tax and Federal payment package that the city has proposed. He did not elaborate.

Fletcher said the city's current estimate is that the riot will cost it $1.7 million in tax revenue this fiscal year, and about $1 million in the fiscal year beginning July 1.

About $1 million of this will probably be in lost sales and excise taxes, he said, due to commercial disruption. Most of the rest will be in reduced property taxes, as a result of fire and other damage.

The riot's more direct cost, in overtime and extra services, will run about $3 million, he said later. The government has not yet figured out how to make up this cost.

McMillan and Rep. B. F. Sisk (D-Calif.) both raised the issue of police restraint during the riot. When outnumbered in the early hours of the disturbance, police sometimes let looters get away rather than risk gunplay, possible bloodshed and escalation of the disorder.

The Chairman, noting that the revenue bill would raise city income, general sales and other minor taxes, noted that it is hard to explain to businessmen "paying more taxes and not getting protection."

Sisk recalled that the Committee questioned Public Safety Director Patrick V. Murphy at some length at a February hearing, and got assurances that the city was prepared for a disturbance.

Some people "felt let down" after the riot, Sisk said. "He (Murphy) didn't live up to his billing."

Sisk also raised the possibility that next month's Poor People's Campaign could bring further loss of business and tax revenue. "It seems to me we could find ourselves substantially short," he said.

The Mayor acknowledged that "the matter of stabilizing not just business but our whole community is not an easy one," but suggested that the city is recovering.

Both McMillan and Sisk tempered their remarks with praise for the Mayor. The Chairman said he was "sure no man has worried more or tried harder to correct (the dislocations of the last few weeks) than Mayor Washington."

Kenneth C. Back, acting director of the Department of General Administration, told the Committee that the revenue bill would "bring District tax rates and burdens more into line with those in the nearby Maryland and Virginia jurisdictions," but would not "unduly burden District residents nor seriously jeopardize the competitive position of the District."

According to tables Back provided, an average family of four with its own home and car and an annual income of $10,000 pays $664 a year in city income, real estate, sales and automobile taxes now.

It would pay $732—$68 more—under the fiscal 1969 revenue proposal. The same family would pay $800 in Arlington, $825 in Alexandria, $827 in Falls Church, $840 in Prince George's County, $844 in Fairfax County, $858 in Montgomery County and $893 in Fairfax County, according to the tables.

The Mayor said the revenue bill is "by far the single most important legislative request by the new District government. Without a substantial revenue increase, our municipal services . . . will be crippled."

The city needs the extra money to balance and forestall cuts in its pending budget, on which House hearings have already begun.

Rep. Thomas G. Abernethy (D.-Miss.) suggested as a partial alternative to the city tax proposals a commuter tax, but only on those District government employes (about 40 per cent) who live outside the city.

McMillan said there will be a further revenue hearing, but set no date.

[From the Washington Evening Star, Apr. 26, 1968]

ABERNATHY EXPOUNDS ON POOR MARCH

(By Charles Conconi)

The Rev. Ralph D. Abernathy came to Washington yesterday to drum up support for the Poor People's Campaign he will lead here, and found time to march in front of the White House with children from Mississippi.

Abernathy, a close friend and successor to the slain Dr. Martin Luther King, Jr., met for more than two hours with 17 representatives of international unions at AFL–CIO headquarters and predicted the cooperation between labor and the civil rights movement would continue.

Jack Conway, executive director of the Industrial Union Department, who called for the meeting with Abernathy, the president of the Southern Christian Leadership Conference, said labor was sympathetic with SCLC's goals, but would not elaborate on what labor might do to help the Poor People's Campaign, which begins here Monday.

At a press conference after the meeting, attended by Bayard Rustin, executive director of the A. Phillip Randolph Institute; the Rev. Walter E. Fauntroy, D.C. Council vice-chairman and local SCLC aide; and top SCLC aides the Rev. Andrew Young, Bernard Lafayette and Bernard Lee, Abernathy said he wasn't concerned about violence when the demonstrators come to Washington.

"Trouble came before we got here . . . trouble has been in many cities in America," he argued, "and no force is more powerful than people who are peacefully petitioning Congress."

Abernathy would not guarantee that there wouldn't be any violence when the estimated 5,000 demonstrators come to Washington to set up a "shanty town," but declared, "at the moment any demonstration becomes violent, it will be called off."

After the meeting, Abernathy went to the sidewalk in front of the White House to join a picket line of preschool children from Mississippi who have been demonstrating there since April 15 for the Head Start program.

The puzzled children, nearly crushed by the newsmen and sight-seers, dutifully bunched around the civil rights leader and hugged and kissed him as he said: "God bless you . . . give me some sugar."

With the television cameras running, the sad-faced little man with watery eyes who will lead one of the most ambitious demonstrations ever planned, told the group of children: "We are going to see to it you get Head Start in Mississippi."

He said the little black children of Mississippi came to Washington to get a simple program—Head Start—and will return without achieving the goal.

That is why, he continued, SCLC must

bring black people, Mexicans, Indians, Puerto Ricans and Appalachian whites to petition Congress to "end racism and to do something about unemployment and underemployment and jobs and income."

The children, led by representatives of the National Committee for the Children of Mississippi, sang in answer: "We want our Head Start—we want it now."

Abernathy then said: "I am going to leave you right now, but I am coming back Monday." He fitted a protest sign over his head that read, "If we cut one child, who loses?" and took one turn on the picket line.

Abernathy then went to the Urban Coalition headquarters and met briefly with former Cabinet officer John W. Gardner, the president of the organization, and would say only that Gardner promised to help.

Rustin, a close friend of the late Dr. King who had helped organize SCLC and the 1963 March on Washington, refused to say if he would help organize the Poor People's Campaign. He had previously been skeptical of the drive.

It also has been learned that official Washington is becoming increasingly concerned as the campaign nears.

One decision yet to be reached is whether the government will permit the demonstrators to build what they call the "New City of Hope" on park land in the city.

PARK USE BACKED

Last night, the local chapter of the Americans for Democratic Actions voted unanimously to support the use of public park land for the campaign.

Meanwhile, delegates representing 170 Lutheran congregations in Virginia went on record yesterday as favoring a tour by Washington governmental leaders of the nation's poverty areas in place of the Poor Peoples' Campaign.

The 149th annual convention of the Virginia Synod, Lutheran Church in America, meeting in Resurrection Lutheran Church, Arlington, endorsed "in principle" a "moral equivalent march" as an alternative which would impress the human aspects of poverty upon the national conscience, and eliminate logistical and financial problems involved in the campaign.

Earlier, during the three-day convention, the delegates expressed "concern for the need of meaningful jobs with adequate income and of adequate and good medical and dental care for the poor" and voted $500 to support persons working with campaign participants, but stopped short of endorsing the goals or program of the Southern Christian Leadership Conference itself.

Congressional pressure reportedly is heavy on both the Justice and Interior Departments that the demonstrators be prohibited from using public land.

Other reports from knowledgeble sources say no decision has been reached as to what to do when the demonstrators attempt to build their town.

The town that will house the thousands of poor expected from all sections of the nation will be built it is reported, with or without the permission of the government. Some SCLC leaders expect this to be a major confrontation and hope many demonstrators will be jailed.

AGAINST "BENDING"

Rep. Roy A. Taylor, D–N.C., chairman of the House National Parks and Recreation Committee, sent a telegram to Interior Secretary Stewart Udall demanding he reject special applications for camping on park lands where camping is not permitted.

Similar voices of opposition came from Rep. Basil L. Whitener, D–N.C. and Rep. Robert H. Michel, R–Ill.

Sen. Russell B. Long, D-La., said he would call for the censure or expulsion of any member who advocated "bending the knee" to demands of the Poor People's Campaign.

"When that bunch of marchers comes here, they can just burn the whole place down, and we can just move the capital to some place where they enforce the law," he asserted.

Sen. Daniel B. Brewster, D–Md., urged that federal troops be stationed here during the campaign.

Abernathy and about 100 leaders and representatives of the poor will spend Monday through Wednesday meeting with the House Ways and Means and Education and Labor Committees and the Senate Labor and Welfare Committee.

They also plan to talk with heads of the Departments of Labor; Housing and Urban Development, Health, Education and Welfare; State; Commerce and Agriculture. Some of the demonstrators will try to meet with Senators from their home states.

The major demonstrations in Washington are not expected to begin until Abernathy returns from memorial services for King where he was murdered in Memphis. Most demonstrators will begin arriving May 12.

[From the Washington Post, Apr. 28, 1968]

CASES SWAMP DISTRICT OF COLUMBIA JUDGES

(By William Shumann)

Day after day, hour after hour, the hearings continue.

They are preliminary hearings for the hundreds of persons accused of looting and other charges in Washington's riot.

Each day, about nine judges plow their way through the riot cases, almost as if by rote. Usually, there is but one witness—a police officer—against each defendant. So far, about 250 suspects have been held by General Sessions Court judges for grand jury action, on the word of the police.

And but four defendants thus far have waived a preliminary hearing.

So far only 25 persons have gone through a preliminary hearing and had the felony charges against them dismissed by a judge. In addition, charges have been reduced or dropped in about another 250 cases.

In all, 925 persons were charged with felonies here. Of the total 7470 arrested, 4049 were charged with curfew violations.

Lawyers seek preliminary hearings so that they can try to find out just how strong the case against their client is and to find out what they'll have to rebut when the case finally gets to trial.

Typically, the testimony at the hearings goes like his:

Prosecutor (to policeman): "Officer, will you describe the circumstances of this arrest?"

The policeman will say he was patrolling at such and such a place, at such a time and, for instance, saw five men in a liquor store, the five ran away and he caught one.

Prosecutor: "Do you see the man you arrested in the courtroom?"

Policeman: "Yes, I do."

Prosecutor: "Will you point him out."

(The policeman points to the defendant.)

Prosecutor: "Let the record reflect that the witness identified the defendant."

The defense lawyers are not putting their clients on the stand (with only one exception), so as to keep the Government from cross-examining them.

In about 40 cases, defense lawyers have staged lineups right in the courtroom. They have brought several persons besides the defendant with them, and have lined them up on the far wall of the courtroom, or on the spectator benches, or right at the defense table. In one such case, a police officer mistakenly identified as the defendant a court clerk—a cousin of the defendant—instead of the man charged. The Assistant U.S. Attorney immediately dropped charges against the defendant.

Many of the defendants are being represented by about 400 "uptown" lawyers, lawyers who usually handle civil cases and cases before U.S. agencies.

Their appearance differs markedly from that of many of General Sessions' regular practicing lawyers. The uptowners are spiffily dressed, carry briefcases and are mostly white.

Their unfamiliarity with criminal proceedings and, in particular, with Washington's lower courts has led to unusual briefing sessions.

One session for about 250 of them was held in General Sessions' courtroom 15, where the Legal Aid Agency and Charles Work, principal assistant Federal prosecutor at the court, explained procedures.

Work told them that "plea bargaining"—the process by which a defendant pleads guilty to lesser charges and has his original, stiff charge dropped—would depend on how District Court grand juries reacted to the first riot cases they heard.

Legal Aid Agency representatives told the lawyers how to conduct preliminary hearings, why to keep their client off the witness stand, and so forth.

In practice, the lawyers have been bargaining, trying to reduce charges. The formal looting charge, second-degree burglary, is a felony, and the statutory minimum sentence is two years in jail. Lesser misdemeanor charges carry a maximum of a year in jail and/or a fine of $1000.

The court has been emphasizing the more serious felony charges so far, and has not yet compiled complete statistics on the 4049 cases of curfew violation.

It does know that 249 of the violators have posted $25 collateral and forfeited, 45 cases were dropped by the corporation counsel's office, and 106 defendants have not appeared for trial dates. The corporation counsels are trying to determine whether to proceed on 104 of those 106 cases, and bench arrest warrants have been issued for two defendants.

The court has not yet compiled records on the remaining persons arrested for violations.

The caseload is hard to handle in the already overburdened court. At the beginning of the riot, many defendants were "lost" in the system.

Even when trials began, mixups were evident.

On the first preliminary hearing day, April 9, prosecutors had to dismiss charges against two defendants when the police could not find the goods they said the defendants stole. Prosecutors say they expect to lose more cases because of similar problems.

[From the Washington Post, Apr. 28, 1968]

LEADERS PROMISE TO AVOID VIOLENCE ON POOR MARCH

(By Williard Clopton, Jr.)

Organizers of the Poor People's Compaign, set to begin Monday, said yesterday they are doing all they can to prevent the massive protest from turning violent.

At the same time, the Nation's top law-enforcement official said the Government "will have whatever is needed" to put down any disturbance that might erupt.

A spokesman for the Campaign said yesterday that a majority of the thousands of protesters scheduled to begin arriving here May 21 "will have had some training in nonviolence."

He also said that enough marshals are being trained to monitor the demonstrations so there will be at least one marshal for every 10 participants.

Among the marshals' duties, it was explained, will be to act as a "buffer" between police and protesters and if necessary, to keep "outside troublemakers" from influencing the demonstrations. Those taking part in the Campaign will wear special plastic wristbands to distinguish them from outsiders.

U.S. Attorney General Ramsey Clark said at a press conference yesterday that any trouble that might arise from the protest

would be dealt with by a proper balance of firmness and restraint.

Experience in coping with civil disorders, he said, has shown that "excessive force will cause escalation and permissiveness will cause escalation."

Although Clark said the Government will be prepared to deal with any violence, he did not indicate that he was expecting any.

The strongest expressions of apprehension have come from several southern Senators, who said the demonstrations could spark rioting or other lawlessness.

Officials of the Campaign have stressed that it is to their advantage to maintain order, so America does not lose sight of its primary goal—to aid the Nation's poor.

The Rev. Ralph Abernathy, who succeeded the Rev. Dr. Martin Luther King, Jr., as head of the Southern Christian Leadership Conference, will open the Campaign Monday when he and about 100 supporters will begin two and a half days of calling on key members of Congress and Federal officials.

They will present a list of demands that is expected to include more jobs, housing, health care and a minimum income for those living in poverty.

Mr. Abernethy, who was on a speaking tour in the South yesterday, is expected to arrive here late today. He will meet then with 100 persons, who will include leaders of a number of national organizations.

He is to speak Monday night at John Wesley AME Zion Church, 1615 14th st. nw., during a rally to muster local support for the Campaign.

The Rev. Bernard Lafayette, an aide to Mr. Abernathy and the national coordinator for the Campaign, arrived here Thursday and met yesterday with a steering committee of about 40 persons, including representatives of the various geographical regions to be represented during the mass protest.

As many as 10,000 protesters will begin arriving here May 12 from all parts of the country. Most will be poor Negroes, but there are to be delegations of American Indians, Puerto Ricans and Appalachian whites.

The visitors will lobby and demonstrate for passage of new poverty legislation and are expected to remain at least until Memorial Day, when a huge one-day rally—perhaps equal in size to the 1963 March on Washington—is to be called.

Plans are for the "camp-in" participants to make their way to Washington by varied means of transportation, including buses, "freedom trains" and even mule-drawn wagon.

[From the Washington Evening Star, Apr. 27, 1968]

RIOT CASES TOTAL 1,669, DISTRICT COURT REVEALS

(By Donald Hirzel)

There were 1,669 riot-connected cases submitted to the District Court of General Sessions for processing from April 5 through 10, according to the first court-released tabulation, issued yesterday.

In addition, there were 4,049 charges of curfew violation made by police during the riots.

The 1,669 cases involved 1,488 defendants. Of the 1,669 cases, 925 involved felony charges and 744 involved misdemeanors. As of Wednesday the court had disposed of 501 felony cases. In 241 cases, the felony counts were dropped, and in many cases replaced with misdemeanor charges. And 24 cases were dismissed by the court.

There were 234 cases held for grand jury action. Of this number only four defendants did not demand and receive preliminary hearings.

There were 424 felony defendants awaiting preliminary hearings as of the middle of this week.

Of the misdemeanor cases, 305 had been disposed of by the middle of the week. Of this number, 224 were dropped by the government; 6 were dismissed for want of prosecution; one defendant was found not guilty; 23 were found guilty and 51 cases were undetermined as to their status.

Chief Judge Harold H. Greene said the status of 70 cases is undetermined because of errors made at various stages of proceedings as the majority of the cases poured into the courts on the weekend of April 6–7.

At midweek, there were 439 misdemeanor cases remaining, of which 229 were pending trials by the court and 210 were awaiting jury trials.

Of the 4,049 curfew cases, 249 defendants have forfeited collateral; charges were dropped in 45 cases and 106 were past due, meaning the defendants did not post collateral or appear in court on trial dates. However, only two warrants have been issued for the arrest of persons failing to show up for trial.

Greene said statistics on bonds are still not complete but it has been determined that 471 defendants were released on personal bond; 236 on cash bonds, and that, as of yesterday, 86 persons were still in the D.C. Jail because they could not post bond.

[From the New York Times, Apr. 29, 1968]

HEADS OF POOR PEOPLE'S MARCH TO PUT DEMANDS TO THE CABINET

WASHINGTON, April 28.—Leaders of the Southern Christian Leadership Conference announced today plans for meetings during the next three days with members of President Johnson's Cabinet and key Congressional leaders to present demands for "justice for the poor of America."

The round of visits to Government offices, beginning early tomorrow morning, will be the initial phase of the Poor People's March on Washington, originated by the late Rev. Dr. Martin Luther King Jr.

The Rev. Ralph D. Abernathy, Dr. King's successor as president of the leadership conference, will lead a delegation of about 100 persons in the conferences with eight of the 12 Cabinet members and a number of Congressional leaders.

Included in the delegation are representatives of Appalachian whites, Puerto Ricans, Mexican-Americans, and Indians, as well as Negroes, who comprise the majority.

DEMANDS TO BE STATED

Mr. Lafayette said that a group would demand action on programs for jobs and housing and a guaranteed annual income for the poor.

Asked whether he thought there was a realistic chance of Congress' approving such a program in its present budget-cutting temper, Mr. Lafayette said: "We realize it's going to be a struggle, but if these demands are rebuffed thousands of other poor people will march on the capital from all parts of the country and we will stay in Washington until our demands are met."

At another point he said that the demonstrators would be "appealing above the heads of Congress to the people of the country." He said that 15 different caravans of poor marchers will leave for Washington from various parts of the country in early May.

[From the Washington Post, Apr. 28, 1968]

MARCH TURNED INTO "LAB" BY VISITING STUDENT GROUP

A visiting professor is nothing rare on the academic scene. A visiting class is.

Thirty-three students from the University of California at Berkeley have made the Nation's Capital their classroom for the spring.

Here for the Poor People's Campaign, they stuff envelopes, type stencils and make themselves otherwise useful around the Campaign offices at 1401 U st. nw.

It is no scholastic joyride, however.

The 33 are enrolled in a special course—Social Analysis 133: The Politics of Race Relations—taught by Dr. Carl Werthman, an assistant professor of sociology who has stayed behind at Berkeley.

Each student is pursuing an independent research program of his own design. Each must hand in a lengthy term paper when he returns home at the end of the academic quarter in June. Each one who passes will earn 15 credits toward his graduation.

The course resulted from a decision by the University administration that students can occasionally initiate courses provided basic scholastic requirements are met.

Social Analysis 133 originated last December, when the Rev. Dr. Martin Luther King, Jr. announced that he would lead a mass "camp-in" in Washington this spring in order to dramatize the need to Congress to aid the poor.

When Edward T. Anderson, a senior majoring in sociology at Berkeley, heard about it, he and several other students prepared a prospectus for the course and submitted it to the school officials. It aroused relatively little opposition and was approved. The students, all volunteers, arrived in Washington about two weeks ago.

"As a black college student, I regard the experience as an on-the-spot education in contemporary political affairs," Anderson says, "We are, I think, witnessing either the life or death of the democratic process."

Jan Cohen, 20, a senior in criminology, confided that the course is chiefly an excuse for her to be here for the Campaign.

She said she used to think the Southern Christian Leadership Conference was "an ethereal policymaking group," but is finding its leaders both tough and practical.

Trina Grillo, 19, a social science major, said she welcomed the trip because "I have often felt that education wasn't always to the point.

"I mean, here we live in a country where there are riots, cities are burning down and Congress isn't doing anything." Being part of the Campaign she said, provides insights she doesn't get from her textbooks.

Peter Kalnay, 21, an English major, sees the Campaign as "a chance for a peaceful revolution in this country."

"We're at a point in history where several big things are coming to a head at once—the war, the presidency, the race problem. It's a really exciting moment to be here," he said.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, before morning business is concluded, I have been requested by the junior Senator from Louisiana [Mr. LONG] to suggest the absence of a quorum and to ask that it be a live quorum.

Mr. President, I suggest the absence of a quorum. I ask attachés to notify Senators that it will be a live quorum.

The PRESIDING OFFICER (Mr. PEARSON in the chair). The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 120 Leg.]

Aiken	Holland	Pearson
Anderson	Hruska	Randolph
Bartlett	Inouye	Russell
Bennett	Jackson	Scott
Byrd, Va.	Jordan, N.C.	Sparkman
Byrd, W. Va.	Jordan, Idaho	Symington
Case	Long, La.	Talmadge
Church	Mansfield	Thurmond
Clark	McClellan	Williams, N.J.
Eastland	McGovern	Williams, Del.
Ellender	McIntyre	Yarborough
Ervin	Metcalf	Young, N. Dak.
Fong	Morse	Young, Ohio
Hill	Morton	

Mr. BYRD of West Virginia. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Alaska [Mr. GRUENING], the Senator from Missouri [Mr. LONG], and the Senator from Utah [Mr. Moss] are absent on official business.

I also announce that the Senator from Tennessee [Mr. GORE], the Senator from Oklahoma [Mr. HARRIS], the Senator from Michigan [Mr. HART], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Maine [Mr. MUSKIE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Virginia [Mr. SPONG], and the Senator from South Carolina [Mr. HOLLINGS] are necessarily absent.

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. DOMINICK] and the Senator from Oregon [Mr. HATFIELD] are absent on official business.

The Senator from Delaware [Mr. BOGGS] is absent to attend the funeral of a friend.

The Senator from Colorado [Mr. ALLOTT], the Senator from New Hampshire [Mr. COTTON], the Senator from Nebraska [Mr. CURTIS], the Senator from Arizona [Mr. FANNIN], the Senator from New York [Mr. JAVITS], the Senator from California [Mr. KUCHEL], the Senator from South Dakota [Mr. MUNDT], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The PRESIDING OFFICER (Mr. MCINTYRE in the chair). A quorum is not present.

Mr. LONG of Louisiana. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay, the following Senators entered the Chamber and answered to their names:

Baker	Griffin	Murphy
Bayh	Hansen	Nelson
Bible	Hartke	Pell
Brewster	Hayden	Percy
Brooke	Hickenlooper	Prouty
Burdick	Lausche	Proxmire
Carlson	Magnuson	Smathers
Cooper	McGee	Smith
Dirksen	Miller	Stennis
Dodd	Mondale	Tydings
Fulbright	Monroney	

The PRESIDING OFFICER. A quorum is present.

Is there further morning business?

PERSONAL PRIVILEGE

Mr. LONG of Louisiana. Mr. President, I should like to ask that someone in the cloakroom notify the junior Senator from Illinois [Mr. PERCY] that the junior Senator from Louisiana is speaking with reference to a matter that involves the Senator, and the latter perhaps would like to know about it. I do not plan to reflect on the Senator. As a matter of personal privilege, I would like to advocate law and order, and get straight with the Senator any disagreement we might have, or perhaps our agreement.

The Senator from Lousiana was alerted to the fact that there was an Associated Press story which declared "Percy-Long Clash Grows Over March." Mr. President, I was not aware that I had any clash with the junior Senator from Illinois. I just thought that he was doing his job and I was doing my job, and that no one was the worse off one way or the other.

Mr. STENNIS. Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. LONG of Louisiana. I have always had a high regard for the Senator from Illinois. May I say, Mr. President, that the first day I met him, long before he became a Member of this body, I regarded him as a likable, personable, dignified gentleman, well regarded by those who know him; and I did not know that we had any bones to quarrel over one way or the other. I was not aware that there was some sort of Percy-Long clash going on. It came as a complete surprise to me to be informed of a story by the Associated Press, out of Washington, which declared "Percy-Long Clash Grows Over March." I did not know that there was any clash at all.

The story continues:

WASHINGTON (AP).—

It does not say who the reporter is. I am sure it is some fellow who was working overtime to meet a deadline, to generate a story and to find something about which to create interest, even if there is nothing about which to argue.

"When the Poor People's campaign reaches Washington, its representatives should be received by Congress with the same regard given lobbyists," Senator Charles Percy (R. Ill.) said Sunday.

Mr. President, my impression is that that is what the junior Senator from Louisiana said on Thursday. I have the RECORD before me. This is what I said:

If demonstrators wish to obey the law, more power to them. God bless them. If they want to express their opinion and explain what they have in mind, propose to do it peacefully, and feel that to demonstrate is the only way they can express themselves, they can do that in order to explain what their problem is. More power to them. I shall be glad to consider what they have in mind.

That is what I said. I did not suggest that the views of Reverend Abernathy or his group should not be considered. As a matter of fact, I commenced my speech on that occasion by putting into the RECORD Reverend Abernathy's wire, in which he requested to meet with me. I said that I would fly back especially to be here and meet with him and hear whatever he wants to say. And I am here. He is not around at the moment. He is busy elsewhere, but I am here, and I will be available to him tomorrow, if Reverend Abernathy wants to discuss matters.

It came as a complete surprise to me that anyone gained the impression that I had said anything else.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. LONG of Louisiana. I ask unanimous consent that I may proceed without regard to the 3-minute time limitation.

Mr. MANSFIELD. Mr. President, I would hope that the Senator would put a time limitation on his remarks.

Mr. LONG of Louisiana. I ask unanimous consent that I may proceed for an additional 15 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG of Louisiana. The news item continues:

Percy said Senator Russell B. Long (D. La.)—

"D" means "Democrat"—

cannot hope to make good his threat to seek censure for any Senator who advocates "bending the knee" to Negro leaders of a drive for legislation to aid the poor.

Let us see what I said, Mr. President. What I said is contained in the RECORD on page 10615:

Mr. President, let me make clear that so far as I am concerned, the Reverend Abernathy can come on up here, Stokely Carmichael can come on up here, and if our good judge in Louisiana can find it in his heart to let one of my constituents, Rap Brown, out of jail, he also can come up with them and they can make all the mischief they want—all the mischief the Federal Government in Washington, D.C., will permit them.

And, if any Senator comes before the Senate and asks us to bend the knee to protect law violators, then we should consider censure, or consider expelling him from the Senate, rather than let the Government of the United States be run by law violators.

So what the Senator from Louisiana was saying, in effect, was that so long as these people want to behave themselves, fine; I am happy to hear them. And if they want to hold a parade, I may go to see the parade. Or if they want to hold a meeting, I will either go to it or turn on the TV and hear what they have to say. And if they want to appear before the committee, the Committee on Finance deals with many laws regarding social security, public welfare ,and similar subjects. If they would like a hearing, I would be delighted to arrange a hearing for them. Reverend Abernathy has never asked to be heard before the Committee on Finance, to the knowledge of the chairman; but if he wants to be heard, I would be glad to hold a hearing, if he will conduct himself as a gentleman, which I have always thought him to be. I hope he would not repeat the performance of certain welfare mothers and a Mr. Wiley, who formed that organization, to demand ever and ever greater welfare benefits. When those people finished testifying, they refused to leave the room. We had other people who desired to testify, and we could not hear them because those people pulled a sit-down strike on the Committee on Finance. Eventually, we managed to enforce the law and clear the place and get back to business. But I believe that kind of conduct would be unbecoming Rever-

end Abernathy and his group, and I do not believe they would do it.

Mr. PERCY. Mr. President, will the Senator yield for 2 minutes?

Mr. LONG of Louisiana. I will yield for a brief statement or a question, because my time is limited.

Mr. PERCY. I ask the Senator to yield because he is referring to my comment of yesterday. I should like to explain exactly what I had in mind when I made the comment.

I was asked on "Issues and Answers," an ABC program, what my reaction would be to the poor people's march coming to Washington. I said that I had thought very carefully about this matter; that I had decided that anyone who wanted to come to Washington to talk to their Representatives in Congress had a right to do so. I have wired the Reverend Abernathy and the Reverend Jesse Jackson, in Chicago, that not only would I be happy to meet with them, with all the people who came from Chicago and from Illinois, but would also do my best to make arrangements with other Senators so that they might present their cases.

I was then asked if I concurred with the statement of the Senator from Louisiana when he said he would call for the censure of any of his colleagues who "bent a knee" to any of the marchers. I said at that time that I felt that all of us on occasion have a right to "blow our stacks" or whatever it may be, but I certainly would not consider—and I do not know what is meant by "bending a knee"—that any act of censure could ever be leveled against a colleague or a Member of this august body for listening to those representations made by the poor.

I felt that if we could spend our time, as many of us do, listening to lobbyists who come here and present views, that we should not only listen to those persons representing 30 million poor people, but also that it is our duty to go to the ghettos and slums ourselves and see the despicable conditions allowed to be created in this country. I said that I welcomed the chance to speak with these people and that I thought my colleagues would also.

I cannot imagine the Senator from Louisiana, who has a record of befriending the poor and the unfortunate, as I have seen him during my career in the Senate, taking any other position. Anything other than that would have been a misimpression given by his implication that he himself would not listen to their point of view; and also I felt he would not favor censure of any Member of this body for taking such action as he might see fit following a discussion of these matters, but that he would encourage all of us to do as he has done with respect to listening to those who have a point of view in respect to those people who have less than $3,300 a year, which is certainly subsistence living.

I hope that this colloquy explains to those who might be listening that we have no difference of viewpoint; that maybe an expression was used by the Senator that now he can amplify and explain to indicate that we are on the same wavelength.

(At this point, the Acting President pro tempore assumed the chair.)

Mr. LONG of Louisiana. Mr. President, I was not aware of the fact that there was any Percy-Long clash. When I read the statement it was news to me.

I wish to say this to the press. I do not condemn them; I commend them. They are expected to find news, and if they cannot find news they think of something, if need be, to create interest so that one can have something to talk about and something of interest to read in the newspapers.

Therefore, when the junior Senator from Louisiana expressed himself in favor of law and order, he read in the press the next day that an irate LONG said this and said that. With whom would I be irate? The only other Senator in the Chamber was the distinguished Senator from West Virginia [Mr. BYRD], and he agreed with me. [Laughter.] I was more or less making my position clear for the RECORD.

I wanted to make clear that I have indicated—and the distinguished Senator from Illinois was so charitable to say it—that I always wanted to do whatever I could to provide for the less needy and the poor, be they children, the aged, or the sick, unemployed or whatever their problem may be.

Now and then in this body, inasmuch as we do not have an amplifying system, it is a good idea to raise one's voice and talk loud enough for people to hear.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. MURPHY. I wonder what the Senator's reaction would be to the suggestion that we install television cameras here so that people who are so inclined could see and hear what is going on and find out whether or not the Senator was irate and whether or not the Senator from Louisiana and the Senator from Illinois did or did not have a disagreement?

Mr. LONG of Louisiana. That would be fine with the Senator from Louisiana. I am agreeable to almost anything. I am not angry about anything or anyone now and I was not angry with anyone on Thursday last.

From time to time newspaper reporters find that they must juice up the story a little and put in some sex appeal.

Newspaper accounts sometimes say that the Senator from Louisiana "got red in the face." Look at me. I am red in the face now, I am almost always red in the face. It is my privilege to go home from time to time, and I sit around my small swimming pool in Louisiana on a Sunday afternoon. It is not that I got red in the face when I took the floor. I came here red in the face after the weekend; and I am not angry with anyone.

The Senator was trying to make clear that he believes in law and order. One must sometimes consider proposing a declaration to some of our able newspaper reporters who juice up the story, to make the point that people should do whatever the law says.

The article continues:

"All of us blow our tops," Percy said. "I would say Senator Long has on occasion blown his top." Percy said "talking to the demonstrators would be no different than talking to any voter. He's (Long) done it with representatives of the oil industry. Why not the poor people?

The point of the matter is that the junior Senator from Illinois [Mr. PERCY] did not hear my remarks; he judged them by an inaccurate account. So far as I can see, we really do not have a lot of difference except with regard to our differing views about apprehending fleeing felons.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire article to which I have referred entitled "Percy-Long Clash Grows Over March."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PERCY-LONG CLASH GROWS OVER MARCH

WASHINGTON (AP).—"When the Poor People's campaign reaches Washington, its representatives should be received by Congress with the same regard given lobbyists," Senator Charles Percy (R. Ill.) said Sunday. Percy said Senator Russell B. Long (D. La.) cannot hope to make good his threat to seek censure for any Senator who advocates "bending the knee" to Negro leaders of a drive for legislation to aid the poor. The leaders will start calling on Members of Congress Monday.

"All of us blow our tops," Percy said. "I would say Senator Long has on occasion blown his top." Percy said talking to the demonstrators would be no different than talking to any voter. He's (Long) done it with representatives of the oil industry. Why not the poor people?" Percy offered to try to arrange meetings between appropriate members of the Senate and the campaigners to try to reason with their demands on Congress.

"Unless Congress opens an ear to the marchers," he added, "there will be cause and potential for violence in the demonstration."

"The government," he said, "can no longer sit back and watch the country burn down."

Percy described as extremely unfortunate Chicago Mayor Richard Daley's statement that looters and arsonists should be shot. "I think he regrets it," said Percy, adding that the bullets were excusable only if a minimum force failed to stop such action.

Mr. LONG of Louisiana. Mr. President, I talk with poor people all the time, and I talk to them more than I talk to representatives of the oil industry, because the poor people are so much more numerous. This Senator will talk to anyone, whether he is from California, Louisiana, Texas, or New York. All that a person has to do is go to the Doorkeeper who sits outside this Chamber and send in a card. If I am not too busy at the time, I will go out. I have even had discussions with some people who have criminal records as long as your arm; but if they wish to talk to me, I am willing to talk to them, especially if they are from Louisiana.

It is merely my view that we are going to have to obey the law and we must agree that law and order must prevail as a first and foremost consideration if this Government is to survive.

Every Senator, when he enters this body, takes an oath of office to uphold and defend the Constitution of the United States and the laws of this country. In my opinion, if a man sees people burning down this Capitol Building, destroying the Nation's Capital, violat-

ing the laws, with no regard to safety and the rights of others, he is not fulfilling his oath to uphold the Constitution and the laws of the United States when that person permits the lawlessness to continue.

If he permits his Government to be blackmailed by law violators and into passing laws, not because they are right—and I believe that laws to help the poor would be right if they were well conceived—and not because they have logic and are just, but because someone is intimidating or threatening someone, he is not upholding his oath to uphold the Constitution. That would be true if he were willfully permitting violation of the law to go along and even encouraging that sort of thing by passing laws to reward the law violators. Mr. President, this has nothing to do with race. A Negro has every bit as much right to have his home protected as a white person has.

I regret to say and it is with some sorrow that I mention what is happening in Louisiana now. It is completely new to our State. However, some people are calling upon Negro citizens and white citizens to either hang on their homes a black flag or a piece of black crepe, as a sign of mourning for the late Martin Luther King, and if they do not do so, they are threatened that their houses will be burned down. I am told that a few homes have actually been burned, mainly homes of Negro residents, because they did not heed the warning.

Some good people very close to me had such threats made upon them. Whoever is doing that is badly misguided. If they are threatening to burn down a person's home because he does not hang out a black flag or a piece of black crepe, there is a criminal element present.

This Senator always felt that mourning should be sincere and that it should come from the heart. If I attend a funeral or wear a black armband of mourning, it is an indication that I am mourning the loss of someone I admire and love. It is the thought of the Senator from Louisiana that that should be something one does because he finds it very much in his heart to express his feelings on the subject.

Mr. President, I am a second-generation welfare advocate. My father was in that business ahead of me, advocating help for the poor and doing something about it. Today's so-called poverty people are Johnny-come-lately's, because I was advocating, speaking for, and trying to help the poor long before I ever heard of any of those people, and my father was doing something ahead of me. We were controversial for that very reason. I still want to do anything that can be done to help the less fortunate.

The point I make today is that law and order must prevail because that is for the good of everyone and is to the advantage of everyone. It never occurred to me that it would ever be controversial for anyone to suggest that when someone has committed a felony he should not be arrested, that when a policeman seeks to arrest such a felon, if he cannot make an arrest in any other way, rather than let such a person escape, he should shoot him.

Let us understand one another, that from my point of view what I am saying is no basis at all for a new controversy. It has always been that way. When a policeman thinks a felony has been committed, it is his duty to try to apprehend that felon, and if he orders the felon to halt, and the man does not, then he is dutybound to shoot him.

I have asked the FBI to provide me with a list of the procedures they use when they try to apprehend the 10 most wanted criminals in America. The man who murdered Martin Luther King, Jr., is at the top of that list.

I understand that when they seek out one of those 10 most wanted criminals, they surround the place where he is hiding with as many as 100 FBI agents and then someone with a bullhorn says, "This place is surrounded." Then he states the name. Then he says, "Come out with your hands up." When that person comes out, if he so much as makes a move toward one of his pockets, or breaks to run, the FBI agents all start shooting at the same time. They take no chances on having any innocent, law-abiding citizen or law-enforcement officer injured or killed trying to apprehend murderers or someone who has committed one of the many heinous crimes which can be committed against society in this country. That is as it has always been. We are not proposing to shoot someone if he is just walking on the grass, or stealing apples from a grocery store, or anything like that. We are talking about the escape of felons.

Some time ago, I read about the horrible crime in one of our great American cities where someone had murdered eight nurses and if he had had his way, would have killed nine.

If a policeman had seen that man leaving the scene of his crime, had reason to believe that he was a murderer, and had told that man to stop and the murderer had not stopped, he would be under the burden of shooting him and stopping him with a pistol bullet, or in some other way, because it would have been up to him to have apprehended that felon. Perhaps he could not be certain that the man was a murderer, but if the officer had good reason to think that a serious crime had been committed, would have been dutybound to have acted in that way.

Mr. President, I ask unanimous consent to have printed in the RECORD an article printed in yesterday's Sunday Star, written by James J. Kilpatrick, entitled "Daley's Unexpected 'Burst of Unerring Wisdom'."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DALEY'S UNEXPECTED "BURST OF UNERRING WISDOM"

(By James J. Kilpatrick)

DETROIT, MICH.—Two weeks ago, Chicago's Mayor Daley looked into his heart of hearts, and gave voice to the terrible truth he saw there. Arsonists, he said, are murderers; police who catch them in the act should shoot to kill.

It is not often that politicians commit truth in the first degree; this is a grievous offense for a man in public life, and for his candor Mayor Daley has suffered grievous abuse. The liberal bleeding-hearts, have long ago lost Bull Connor and wearied of George Wallace, seized upon His Honor with howls of exultant fury. They pummeled him so brutally that the Mayor cried uncle, apologized for his statement, and crept back to the caves of circumlocution.

Well, he was on the right track the first time. What Mayor Daley was saying, in his burst of unerring wisdom, is that persons charged with enforcement of law must use force to deter its willful violation. When one is faced with a hot-eyed tiger, run amok and poised to spring, it is useless to mew kitty-kitty. Either we free our cities of the peril of firebug beasts of prey, or we live enslaved to fear. Appeasement will get us nowhere.

In his recommendation for use of deadly force, Mayor Daley was not speaking of mere arrests for disorderly conduct. He was not talking of the rioter who acts from passionate impulse or from mob contagion. He was speaking of the arsonist, whose premeditated acts embrace the bottle, the gasoline, the fuse. Such a person is not bent on vengeance; his purpose is not even to steal; his object is blind destruction, and he is indifferent to the death or loss he may inflict on others.

Here in Detroit, one is told, Mayor Daley's bold statement was greeted with rousing applause, by white and black alike. Detroit is sick of riots, sick of looting, sick of burning. In shops, hotel lobbies, barber shops, men talk freely of a reversion to vigilante law. A middle-aged Negro porter is profanely sold on the Daley approach. His own lodgings were burned out a year ago; now his sister, a laundry worker, is out of work as a result of the latest destruction. He is bitter toward the arsonists. "They're not my brothers," he says. "They're not anybody's brothers."

Mayor Daley's critics say that shooting begets shooting; if police use deadly force, it is said, rioters will respond in kind. Lives will be lost. Passions will be further inflamed and race tensions made worse. As a consequence, property damage might be even greater—but the critics are not much concerned with property damage. After all, goes the refrain, human rights are worth more than property rights.

This line of reasoning fails to convince. The frightful events of Palm Sunday weekend make it evident that the United States must grapple with an intolerable situation here at home. Nothing like it has happened in our history. This is insurrection; it is a form of guerrilla warfare. In war, men die. It is the awful sacrifice society must pay for its own preservation. If arsonists do not wish to risk being killed, they can dispel the risk in an instant: They can stop being arsonists. It seems little enough to ask. Just don't burn the building.

And if the talk is to be of conflicting "rights," we ought to keep it firmly in mind that property rights are the oldest of all human rights. The right of a man to peaceful possession of his property antedates all other civil rights. Governments are instituted among men to keep these rights secure. It is a topsy-turvy kind of madness to suggest that law-abiding men should submit to arsonists and looters.

Granted, "deadly force" alone will not suffice. The root causes of this insurrection will not yield to gunfire. Everyone knows that. A massive task of reconciliation and reconstruction awaits us. But the restoration of public order comes first. Not until we put an end to "burn, baby, burn," will it be possible to succeed in "build, brothers, build."

Mr. LONG of Louisiana. Mr. President, Mr. Kilpatrick's expressions in the article are, in my judgment, substantially correct, and I believe that they serve to illuminate this problem.

AMERICA KEEPS FAITH WITH ASIA

Mr. McGEE. Mr. President, during his recent visit to Hawaii, President John-

son met with President Park, of South Korea, and spoke briefly at the Korean consulate in Honolulu. President Johnson first reviewed the history of America's relationships with the nations of Asia. Then, looking into the future, he said:

I deeply believe that my successor—whoever he may be—will act in ways that will reflect America's abiding interest in Asia's freedom and in Asia's security.

I am sure that this statement, and the rest of the President's remarks, helped erase any doubts that may have existed about the role that America sees for itself in the future development of Asia. This role is not an isolationist role, and it is not a paternalistic role.

As President Johnson said:

We wish to see Asia—like Europe—take an increasing responsibility for shaping its own destiny. And we intend and we mean to help it do so.

The President's remarks are extremely significant, coming as they do at this critical juncture in our dealings with Asia. Accordingly, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF THE PRESIDENT AT THE KOREAN CONSULATE, HONOLULU, HAWAII, APRIL 17, 1968

Mr. Consul, General Kim, President Park, Ladies and Gentlemen:

I am delighted to be able to join President Park on this occasion, not only because I share his pleasure in this meeting, but because this occasion tells us so much of our past and our future. Today we had a most pleasant and productive discussion.

When I say us, I mean all the peoples of the Pacific—who are determined to live as independent nations and free human beings.

You Americans here tonight of Korean descent know that this State has demonstrated to the rest of our Union—and to the entire world, for that matter—that America's concern for human dignity reaches out across the Pacific as well as across the Atlantic.

Our ties across the Pacific go back a long way—at least a century and a quarter, to the time when we became involved in China and then a little later in Japan. But it is only in the past 27 years that we have learned that the destiny of the United States is—once and for all—bound up with the fate of the peoples of Asia and the Pacific.

Until the end of the Second World War, we in America gave little thought to the history and the problems of our neighbors in Korea.

Then, suddenly, we found ourselves caught up—as we have with many other peoples—in Korea's emergence from colonialism to independence.

Through no fault of their own, the people of Korea have had to bear more suffering and challenge than any other nation emerging from colonialism—with the possible exception of the people of Vietnam.

Together we have seen through a terrible war and a period of uncertainty and confusion. Together we have had the privilege of sharing in the adventure of a new nation moving forward in a miracle of progress.

These ties—these memories—are important. They are as much a part of our history as they are of Korea's.

But, equally important is the fact that this new nation and this free South Korea of whom President Park is the spokesman—and a very able one—is now helping to build a new structure of cooperation in Asia.

As we face now in Vietnam—hopefully—a movement from war to peace, I wish to tell all of you, my fellow citizens—and you, my dear friend, President Park—what I deeply believe.

I deeply believe that this nation will continue to play its part in helping to protect and to develop the new Asia.

I deeply believe that my successor—whoever he may be—will act in ways that will reflect America's abiding interest in Asia's freedom and in Asia's security.

The commitments of America in Europe and Asia—all made by Congresses and Presidents before my Administration—are color-blind. They run with the security of the nation and with our basic human values. They will remain firm in the years ahead.

Because we know that peace among our neighbors of Asia is just as important to America as peace among our neighbors in Europe. Dignity, independence and freedom are universal aspirations of men—East and West, North and South.

The days are long gone when Americans could say that Asians are not our kind of people. People who love peace and freedom—whatever their color or their religion or their national origin—are our kind of people. The fight against racism and bigotry knows no international dateline.

We wish to see Asia—like Europe—take an increasing responsibility for shaping its own destiny. And we intend and we mean to help it do so.

We look—eagerly, even impatiently—to the day when the real battle of Asia can be joined with all of our resources:

The struggle against poverty and hunger, illiteracy and disease;

To increase the supply of food and to assist those who are trying to plan the size of families;

To exploit to the hilt the fantastic possibilities for developing the Mekong Valley, and all the other great conservation works of this continent.

In these works of peace the United States of America will take its fair share along with the other responsible nations of the industrial world.

And in their benefits—all the nations of Southeast Asia should participate—not just our present allies—but North Vietnam and all human beings in that great region who long for freedom and dignity and liberty.

America will remain the friend and the ally and the partner of Europe.

But America will also remain the friend, the ally, and the partner of free men in Asia.

This is my faith. This is my belief. This is my judgment.

I came here tonight to salute that great and gallant leader of the Korean people whose friends of Korean descent have gathered here, to say that we applaud your leadership, we admire your progress, and we in America feel that we are not only an Atlantic Nation, but we are equally a Pacific Nation.

In this part of the world, almost two-thirds of all humanity live. If that (humanity) is what we are interested in—and that is all that really justifies our survival, a desire to better humanity—if that is what we are interested in, it is going to take at least more than half of our efforts, and we pledge to you sincerely tonight those efforts.

Good night and God bless you.

PRESIDENT JOHNSON ANNOUNCES ESTABLISHMENT OF URBAN INSTITUTE

Mr. WILLIAMS of New Jersey. Mr. President, last week, President Johnson announced the establishment of the Urban Institute, a private organization dedicated to work for solutions to the great problems facing the Nation's cities.

As described by the President, the Urban Institute will bridge the gap between researchers and decisionmakers, encourage an interdisciplinary approach to city problems, and take a long, broad view at the forces that determine what kind of cities we have. There is probably no greater domestic challenge we face than the challenge of our cities. The urgency of this challenge is highlighted by the President's comment:

I wish this Institute had been established a decade ago so that we could now be reaping its results.

I share the President's views in this regard and I look forward to the contribution that the Urban Institute will make in solving our urban problems.

We are hard at work on these problems now. I hope the institute will supplement our efforts.

For the benefit of my colleagues who are committed to a bright future for urban America, I ask unanimous consent that the remarks of President Johnson, as well as a descriptive paper on the Urban Institute, be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXT OF THE REMARKS OF THE PRESIDENT AT THE MEETING WITH THE BOARD OF TRUSTEES OF THE URBAN INSTITUTE, APRIL 26, 1968

I am happy to welcome you to the Cabinet Room.

This is an exciting day for the Nation and for me.

You have launched something America has needed and wanted for a long time. It is a new Urban Institute. It will promise to give us the power through knowledge to help solve the problem that weighs heavily on the hearts and minds of all of us—the problem of the American city and its people.

You will not lay a single brick or build a single house. But the work the Institute will do—the studies and the evaluations and the free and searching inquiries—will build the strongest foundation upon which we can renew our cities and transform the lives of people.

We know today only how much we do not know about the cities:

Data to inform our decisions is weak or missing.

Urban research is splintered and fragmented.

Relationships between jobs and housing and income and education are unclear.

The Urban Institute is an important response to this "knowledge gap." It will fill a real need by:

Bridging the gulf between the lonely scholar in search of truth and the decision-maker in search of progress through effective programs.

Bringing together all the disciplines needed—not only scientists and administrators, but economists, planners, and architects. And it will get them to work together—in cities, and on the problems of cities.

Taking a comprehensive view of urban life and seeking to understand the forces that produce decay as well as growth.

You know better than most that there are no overnight remedies to the problems that formed and hardened decades ago.

But we are moving—and you will help dispel the darkness that remains. Some day the light will shine. Of that I am sure. The work of this Institute can help speed the coming of that day.

As you begin your venture, let me offer these suggestions:

Your research must be of the highest quality but also of the greatest practicality.

Your staff must not only think hard about the city, but work amidst the presssure and conflicting forces of life in the city.

Your work must be to distinguish the long range from the temporary, the real from the illusory.

Above all, the Institute must operate in a climate of intellectual freedom and organizational independence. The search for truth must be uncompromising, unhindered by partisan coloration or blocked by conventional wisdom.

I wish this Institute had been established a decade ago so that we could now be reaping its results. But now you have begun it, and it will serve us in the years ahead. It is a sound investment in the future of our land.

The Institute was shaped and molded by good men like Kermit Gorden, McGeorge Bundy, Irwin Miller, Arjay Miller, Richard Neustadt, Cyrus Vance and Robert McNamara. They worked not as Democrats or Republicans—but as Americans.

I know the Institute will get off to a fast start because you have made a wise and excellent choice for its first President. Your selection of William Gorham, one of the ablest young men in public service during the last eight years, pleases me.

The Institute is now launched and christened, and I wish you good luck and Godspeed in your journey ahead.

PROSPECTUS FOR THE URBAN INSTITUTE

In his March 14, 1967 Message on Urban and Rural Poverty, President Johnson called for the establishment of a research institute to help find solutions to the problems and concerns of our cities.

In December, President Johnson asked seven distinguished citizens to draft a charter for the Institute, incorporte it as a private, non-profit corporation, select a Board of Trustees and recommend a president for the Institute. This panel of incorporators included J. Irwin Miller, Chairman of Cummins Engine Company who chaired the group; McGeorge Bundy, President of the Ford Foundation; Kermit Gordon, President of the Brookings Institution; Robert S. McNamara, formerly Secretary of Defense and now President of the International Bank for Reconstruction and Development; Arjay Miller, Vice Chairman, the Ford Motor Company; Richard E. Neustadt, Director of the Kennedy Institute of Politics, Harvard University; and Cyrus Vance, formerly Deputy Secretary of Defense and currently a New York attorney.

The incorporators have completed their work. The Institute was incorporated in Delaware on April 24th, and is ready to begin operation. They have elected a 15-member Board of Trustees, which held its first business meeting today, before visiting with President Johnson in the Cabinet Room. The Trustees have elected Mr. Arjay Miller, Vice Chairman of the Ford Motor Company, as Chairman of The Urban Institute, and Mr. William Gorham, former Assistant Secretary of HEW, as the Institute's first President and Chief Executive Officer. Mr. Gorham served with the RAND Corporation, and as Deputy Assistant Secretary of Defense. He brings to the Institute a demonstrated capacity for leadership and creativity in analyzing complex public problems.

THE CRISIS OF THE CITIES

Cities face two critical sets of problems. First, the problems resulting from growth itself. The rapid increase in concentration of people has brought air pollution, noise, water pollution, traffic congestion which deteriorate the quality of urban life.

But these problems are overshadowed by the more desperate human problems of the urban poor. As affluent and middle-income people have moved to the suburbs, the poor have crowded into center cities. Much of the central city population is poorly educated, miserably housed, inadequately served by health and recreational facilities, underemployed, alienated and without hope. High crime rates and rioting are symptoms of the bitterness and alienation of the urban poor.

As a Nation we must mobilize our best intellectual resources to attack the problems of the city, to evaluate the effectiveness of alternative courses of action and to develop workable solutions. The Urban Institute is being created to focus that effort on our highest priority social problem—the cities.

The Urban Institute will study the problems common to cities and the ways in which they can be solved; work with individual cities, studying their particular problems, developing strategies for action and providing technical assistance in carrying out such strategies; provide continuing independent evaluation of Federal, State, local and private programs aimed at meeting urban problems; provide a center of knowledge about city problems, action programs, experiments and effective solutions to city problems.

THOROUGH AND CONTINUING STUDIES OF URBAN PROBLEMS

Commissions and special task forces often help mobilize existing knowledge about particular problems, but go out of existence too soon to carry out in-depth studies.

The Urban Institute will have a permanent existence. It will be able to mobilize high-quality talent for thorough and continuing studies of the problems confronting cities—unemployment and underemployment, poor education, substandard housing, congestion and isolation of the urban ghetto. It will be able to study the interrelation of these problems and work out strategies for attacking them. It will be able to study the implications of alternative employment policies for housing and transportation or the impact of alternative housing policies on education needs.

ASSISTANCE TO PARTICULAR CITIES

The Institute will work in and with individual cities, bringing together a variety of talents to help them in solving their problems. It is expected that the Institute will establish cooperative centers in a number of cities where Institute staff can assist city officials in attacking local problems. This relationship should have a triple pay off: solutions for particular local problems (e.g., how to get maximum benefit from local school facilities in meeting the recreation and education needs of a whole neighborhood), development of experienced teams of analysts who will continue to assist city officials, and knowledge that can be applied fruitfully in other cities.

EVALUATION

In response to urban blight and human misery, the Nation has launched more than 60 Federal programs spending about $22 billion annually. Many of these programs are attempts to find and test new effective solutions to persistent problems. Learning from these programs requires mechanisms either within or outside government for measuring their effectiveness.

The Urban Institute will undertake evaluation of major programs—Federal, local and private. For example the Institute might assist the Federal Government and local model cities agencies in evaluating and comparing experiments in upgrading slum neighborhoods through the efforts of the residents themselves: What are the critical elements that contributed to success in one neighborhood and failure in another? How can we stimulate repetition of successful self-help experiments in other neighborhoods and other cities?

A CENTER OF KNOWLEDGE AND EXPERIENCE

Finally, The Urban Institute will assemble and make available knowledge about city problems, action programs, experiments, and urban studies of such problems. A number of promising centers for urban study have been established in recent years, many by universities or private charitable groups. There is mutual benefit to be gained by supplementing these individual efforts with a large national institute capable of pulling together the bits and pieces of research on urban problems being carried on throughout the country and relating them to policy formulation both at the Federal and local levels. For example, the Institute would synthesize from various local studies what we have learned about effective techniques for teaching underprivileged children in blighted city neighborhoods and make these findings available to all cities.

The Institute is not a substitute for action programs. Programs for better jobs, education, housing, and health are underway and must go forward. What the Institute can provide is a continuing independent resource for evaluating such programs so that public and private money can be translated more effectively into results. In the long run the Institute will provide a better basis for action programs through in-depth study of basic urban problems and research and evaluation of Federal, local, and private programs aimed at meeting the problems.

The Institute will provide (1) a unique *concentration* of high calibre professional talent—scientists, administrators, economists, city planners, operations analysts, architects, engineers—devoted to real and immediate decisions and actions; (2) a *continuity* of study which encourages progress by building on the results of previous analysts; and (3) a *detachment* from program responsibility which encourages objective analysis and study of existing government policy.

The new Institute will be supported by contracts and grants with several Federal Agencies, including the Department of Housing and Urban Development, Department of Health, Education, and Welfare, Department of Labor, Office of Economic Opportunity, Department of Transportation, and Department of Commerce. The level of support will be about $5 million for the first year, with growth expected to be $10–$15 million per year as the Institute develops. This will include support from private foundations. In addition, early in the life of the Institute, individual cities, and perhaps States as well, may contract for certain services or studies meeting the mutual needs of the Institute and the cities or States.

The headquarters of The Urban Institute will be in Washington; city Urban Institute centers staffed jointly by the Institute and local agencies will be established in a number of cities over the next several years.

Members of the Board of Trustees of the Institute were elected by the seven-member panel of Incorporators. They are: Arjay Miller, *Chairman;* Vice Chairman, The Ford Motor Company; William Gorham, *President* of The Urban Institute; William C. Friday, President, University of North Carolina; Eugene G. Fubini, Vice President, International Business Machines, Inc.; William H. Hastie, Judge, U.S. Court of Appeals for the 3rd Circuit; Edgar F. Kaiser, Chairman, Kaiser Industries, Inc.; Edward H. Levi, President, The University of Chicago; Bayless A. Manning, Dean, Stanford University School of Law; Stanley Marcus, President, Neiman-Marcus; Robert S. McNamara, President, The World Bank; J. Irwin Miller, Chairman, Cummins Engine Company, Inc.; Charles L. Schultze, Senior Fellow, The Brookings Institution; Leon H. Sullivan, Chairman, Opportunities Industrialization Center, Philadelphia; Cyrus R. Vance, Partner, Law firm of Simpson, Thacher and Bartlett, New York; Whitney M. Young, Jr., Executive Director, National Urban League.

IN PRAISE OF THE UNITED STATES

Mr. SYMINGTON. Mr. President, regardless of all current problems. domestic

as well as international, every American knows that we live in the finest country the world has ever known.

In that connection, I ask unanimous consent that a recent interesting and thought-provoking editorial from the St. Louis Globe Democrat, "In Praise of the United States," be inserted at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

IN PRAISE OF THE UNITED STATES

Who will say a good word for the United States of America?

We will—and we are sure that nearly all Americans will if they can get the microphone away from the professional hate mongers, the political opportunists and the "Let's All Kick America" crowd.

If one arrived in America from a foreign country and had to judge the worth of our nation by the outpourings of most of our national magazines, a good share of the television programs and the sensation-seeking segment of the press, he might conclude that we are headed straight for hell in a bucket.

As we see it, it is a matter of perspective. Too many newscasters and writers have lost theirs. They seem to get their "kicks" by puffing up the nation's faults to the exclusion of nearly everything else.

They give unlimited time and space in their columns and on the air waves to the hairy creeps and the hate peddlers until they are nauseatingly out of balance. They are sick, and they seem to want to get sicker.

What is all this about? There appears to be an undeclared national contest to see who can kick the United States the hardest.

If this is not so, why have certain television networks and publications given the Stokely Carmichaels, the Dr. Spocks and other far-out radicals such an inordinate amount of coverage?

It seems that every time Carmichael feels an urge for sedition or mayhem, someone shoves a microphone in his face or starts taking notes.

Have those gentlemen with a nose for garbage not been largely responsible for making these rap-America radicals national figures?

The venom against the United States fairly oozes from certain tv and newspaper personalities. These armchair generals nightly asked loaded questions of selected "experts" on the Vietnam war to support their demand that we get out even though they haven't the faintest idea how we could do so with honor or what might follow a precipitous pullout.

Most of such self-appointed experts on military and foreign affairs would be horrified if anyone in Washington had the bad judgment to follow their advice.

Small wonder the American people are confused about the war.

We also have political candidates who would sell out not only their own grandmother but the United States as well for a few votes.

They are so "hooked" on using our government as a punching bag, that they grin like idiots every time they are getting their "enjoys."

We realize the country is undergoing a national orgy of violence and crime, that its popularity abroad has reached an all-time low, and that it faces an awesome challenge in meeting the problems that seem to confront it on all sides.

But what good does it do to make the worst of it?

This is a time for cool heads to take over from the hotheads. It is an occasion for loyal Americans to stand against this sickening outpouring of venom, to make a special effort to point out some of the good things about America.

This is a time to take off our coats and go to work to solve our problems, rather than moan incessantly about them.

Instead of complaining helplessly about riots in the ghettos, find out what you can do to help the great majority of non-rioting, responsible Negroes, who must live in these rotten conditions, achieve a better life.

Try giving the President your support in his all-out search for peace in Vietnam—a peace with honor, not a cover for retreat.

We happen to be citizens of the nation that has done more than any other in the world for the cause of freedom and democracy.

Americans have an unmatched record for sacrifice on the battlefield, for generosity in giving their money and other resources to help other nations withstand aggression, to remain free.

Why worry when Boris Bolshevik from Outer Monrovia or Vulgarslavia screams anti-Americanism?

He knows and you know that were it not for the United States, President Charles de Gaulle of France might today be making his anti-American speeches in a Nazi prison and the Communist flag might well be flying over Greece and who knows where else in Europe?

Filipinos today might be speaking Japanese and Australians might be eating with chopsticks had not American men fought for freedom in World War II, as they fought in World War I, in Korea, and as they fight today in South Vietnam.

No wonder we feel patriotic and couldn't care less if some rum-dum should mumble something inane about "super patriotism."

To the United States of America we say, "long may you live." To the sour-mouthed calamity howlers, we say, "Nuts to you!"

VETERAN NEWSMAN LEAVES STATE BUREAU

Mr. MANSFIELD. Mr. President, each Senator and Representative maintains a very close contact with the press of his own State and district. I am sure we all have our favorites, and there are those who have made a very definite imprint on the affairs of our State. One of Montana's finest journalists has just announced that he will be leaving the profession.

On Sunday, April 21, Thomas E. Mooney wrote the last of his weekly columns entitled "The Statehouse Scene." Tom Mooney is one of the finest writers, political analysts, and responsible journalists in Montana now, and has been for many years.

Tom Mooney has been a newsman for some 33 years and knows Montana as a reporter and columnist. He knows the issues and the people. Politics has been his specialty and he is thoroughly acquainted with the individualistic, and variety of, politics that we have in Montana. Tom Mooney has been a good friend and a critic when he felt it appropriate. His broad knowledge and fairness have been outstanding trademarks of this man's career in the newspaper business. The readers of the Lee newspapers and the State in general will miss Tom Mooney. My only hope is that perhaps, at some future time, he will return to the Montana press.

Mr. President, I ask unanimous consent to have printed in the RECORD, Tom Mooney's last column, entitled "The Last One Is the Hardest," published in the Helena Independent Record of April 21, 1968.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LAST ONE IS THE HARDEST

(By Thomas E. Mooney)

This was the hardest Statehouse Scene of all to write. It is the last one.

Not egotistical enough to believe it will make any great difference to anyone other than the party of the first part, it still is a difficult thing to say goodby to friends and readers who have been so kind ever since the column was started back in 1962.

The Statehouse Scene actually was the brainchild of a canny veteran of Montana newspaperdom, Walter Nelson of the Montana Standard in Butte. At his suggestion, it was produced first in the form of an occasional continuation to the Standard from the Capitol. Gradually, it developed into a weekly feature of that newspaper's editorial page on Sundays.

As time went on, the format changed and somewhere along the way it was decided the column would make regular Sunday appearances in all the Lee Newspapers of Montana.

VARIED REACTION

In all honesty, it must be reported that reception on the part of the readers, particularly those close to the political situation in the state, has been varied.

Thankfully, the most frequent comment to the writer has been: "I read your stuff every Sunday. I don't always agree, but I read it."

I say "thankfully" because what could be worse than to turn out something on a weekly basis that was so vapid readers could not form opinions about it?

Comments such as that, and others, have come from members of both political parties, from those in state government who have been mentioned (or sometimes not mentioned) and, mostly of all, from the best supporters any newsman can have, the people who read his stuff.

SINCERE REPORT

There have been several goals in writing such a column. Efforts have been made to inform, to provide an opportunity to express opinion, occasionally to predict, but always to give the reader a sincere report on things that might be overlooked in the rush of daily news reporting.

Certainly there has been commentary. Perhaps not the deep, penetrating things turned out by some of the national columnists, for example; perhaps nothing of a great moment, but at least an honest effort to provide a newsman's view of statehouse happenings.

The word "statehouse" is used in the broadest sense—designed to encompass anything of timely interest to readers about politics, political parties, politicians and a variety of sidelights not only on state government but on Montana in its entirety.

PRIME CONCERN

Personalities, of course, have been of prime concern. Perhaps along the way, there have been some stepped-on toes. Maybe there has been too much enthusiasm about a particular person or cause. Occasionally there have been errors. Those the writer regrets the most. Never have they been written knowingly, nor has an effort ever been made to present the commentary in any but a sincere manner, except for an occasional lapse into what probably was pretty weak humor. Always an effort has been made to expound personal integrity.

Writing a column is enjoyable for a newsman. On rare occasions, when the material at hand doesn't seem to measure up to the quality level desired, it can be exasperating.

HOUR OF CHALLENGE

But times change. Comes the hour when challenge must be met and personal decisions made, a time when hindsight would be valuable but only foresight is available.

Such a time came during the past week.

Developments have been fully recorded by brethren of the news media—so this is the final Statehouse Scene. Perhaps some readers will miss it. They, and the editors whose counsel has been appreciated, are recipients of personal thanks. But the typewriter will not be stilled, just converted to another task.

GOVERNMENT MUST FIRST PUT A STOP TO "BURN, BABY, BURN" BEFORE IT CAN SUCCEED IN "BUILD, BROTHER, BUILD"

Mr. BYRD of West Virginia. Mr. President, recently in a statement in this Chamber I defended the remarks of Mayor Richard Daley, of Chicago, relative to the use of force in apprehending criminals. I said then that Mayor Daley was simply stating the law in ordering the police to shoot escaping felons in arson and looting cases during rioting if all other means of apprehending them proved of no avail.

Others, I am glad to say, have also taken the position that Mayor Daley was not enunciating some un-American concept in his efforts to prevent wanton destruction and insurrection by senseless mobs. It has been my observation that, when the criminal element is on notice that deadly force, if necessary, will be used to enforce the law, crime is much less likely to occur.

The opposite side of the coin is found in statements by various and sundry public officials that policemen will be "restrained" in dealing with arsonists and looters. Such statements can only serve as open invitations for those adults who would destroy the property and lives of innocent citizens. I regret to say that such encouragement has been given to the criminal element by the statements of some officials in high positions, if inadvertently, in the District of Columbia.

It is for this reason that I found the column in the Washington Evening Star by James J. Kilpatrick on April 28 of especial interest. Entitled "Daley's Unexpected 'Burst of Unerring Wisdom,'" it makes the point that the country is faced with nothing less an insurrection, and that the use of maximum force should not be withheld if necessary to meet such a threat.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DALEY'S UNEXPECTED "BURST OF UNERRING WISDOM"

(By James J. Kilpatrick)

DETROIT, MICH.—Two weeks ago, Chicago's Mayor Daley looked into his heart of hearts, and gave voice to the terrible truth he saw there. Arsonists, he said, are murderers; police who catch them in the act should shoot to kill.

It is not often that politicians commit truth in the first degree; this is a grievous offense for a man in public life, and for his candor Mayor Daley has suffered grievous abuse. The liberal bleeding-hearts, having long ago lost Bull Conner and wearied of George Wallace, seized upon His Honor with howls of exultant fury. They pummeled him so brutally that the Mayor cried uncle, apologized for his statement, and crept back to the caves of circumlocution.

Well, he was on the right track for first time. What Mayor Daley was saying, in his burst of unerring wisdom, is that persons charged with enforcement of law must use force to deter its willful violation. When one is faced with a hot-eyed tiger, run amok and poised to spring, it is useless to mew kitty-kitty. Either we free our cities of the peril of firebug beasts of prey, or we live enslaved to fear. Appeasement will get us nowhere.

In his recommendation for use of deadly force, Mayor Daley was not speaking of mere arrests for disorderly conduct. He was not talking of the rioter who acts from passionate impulse or from mob contagion. He was speaking of the arsonist whose premeditated acts embrace the bottle, the gasoline, the fuse. Such a person is not bent on vengeance; his purpose is not even to steal; his object is blind destruction, and he is indifferent to the death or loss he may inflict on others.

Here in Detroit, one is told, Mayor Daley's bold statement was greeted with rousing applause, by white and black alike. Detroit is sick of riots, sick of looting, sick of burning. In shops, hotel lobbies, barber shops, men talk freely of a reversion to vigilante law. A middle-age Negro porter is profanely sold on the Daley approach. His own lodgings were burned out a year ago; now his sister, a laundry worker, is out of work as a result of the latest destruction. He is bitter toward the arsonists. "They're not my brothers," he says. "They're not anybody's brothers."

Mayor Daley's critics say that shooting begets shooting; if police use deadly force, it is said, rioters will respond in kind. Lives will be lost. Passions will be further inflamed and race tensions made worse. As a consequence, property damage might be even greater—but the critics are not much concerned with property damage. After all, goes the refrain, human rights are worth more than property rights.

This line of reasoning fails to convince. The frightful events of Palm Sunday weekend make it evident that the United States must grapple with an intolerable solution here at home. Nothing like it has happened in our history. This is insurrection; it is a form of guerrilla warfare. In war, men die. It is the awful sacrifice society must pay for its own preservation: If arsonists do not wish to risk being killed, they can dispel the risk in an instant: They can stop being arsonists. It seems little enough to ask. Just don't burn the building.

And if the talk is to be of conflicting "rights," we ought to keep it firmly in mind that property rights are the oldest of all human rights. The right of a man to peaceful possession of his property antedates all other civil rights. Governments are instituted among men to keep these rights secure. It is a topsy-turvy kind of madness to suggest that law-abiding men should submit to arsonists and looters.

Granted, "deadly force" alone will not suffice. The root causes of this insurrection will not yield to gunfire. Everyone knows that. A massive task of reconciliation and reconstruction awaits us. But the restoration of public order comes first. Not until we put an end to "burn, baby, burn," will it be possible to succeed in "build, brothers, build."

IS THE FOREIGN SERVICE LOSING ITS BEST YOUNG OFFICERS?

Mr. PELL. Mr. President, in spite, perhaps because, of several major structural changes in the last 20 years, there continues to exist a severe morale problem in the Foreign Office Service Corps of the State Department. The seriousness of the crisis is reflected in the steady stream of officers resigning from the Department. Charles W. Yost, an old and good friend who after once resigning from the corps, returned to a brilliant Foreign Service career, recently had an excellent letter on this subject printed in the Foreign Service Journal. His letter not only supports those who clearly see a need for reform in the administrative procedures in the Department, but it also clearly outlines a specific list on improvements to be implemented. In the hope that Mr. Yost's proposal will be widely read and acted upon, I ask unanimous consent that his letter be reprinted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMBASSADOR YOST ON THE FSO

I read with interest and concern the article "Is the Foreign Service Losing its Best Young Officers" in the February Journal, written by two young FSO's. Its conclusion—that the Service is indeed losing many of its best after only three or four years and that the primary reasons cited are "work lacked anticipated challenge" and "dissatisfaction with personnel system"—corresponds to my own experience with many promising young officers who either resigned or dispiritedly accommodated themselves to these frustrations.

I was particularly interested, first, because I once resigned from the Service for these very reasons (in 1933) and, second, because I have a son who is considering whether or not to enter the Service.

There is of course, no reason whatsoever, in this age when the United States conducts foreign relations of the greatest significance and diversity all over the world, why the work of its Foreign Service, even the most junior officers of that Service, should lack challenge. Nor is there any reason why its personnel system, complex as are the problems its confronts, should be, or should seem, bureaucratic, unresponsive and unimaginative. I reentered the Department and eventually the Service and thereafter enjoyed more than thirty years of highly satisfying and rewarding experience. I so inform my son and others asking my opinion. On the other hand, there has been and remains a great deal of truth in the criticisms quoted in the Journal article.

First, while it is desirable that young FSO's become acquainted to some degree with as many phases as possible of the work of embassies and consulates, and hence that they be rotated from one function to another, it is ridiculous and often fatal to keep ambitious, highly qualified and highly educated young men and women, who have chosen the Service as their career because of its political and economic opportunities, pinned down for any length of time to essentially clerical work in consular and administrative sections. I resigned because I was fed up with three years of this sort of work and saw no prospect of changing it soon. Many others have done likewise.

I shall not rehash here the arguments of the past 45 years in which the words "democracy" and "equality" have been misused to lump all the aspects of Foreign Service work together and to insist that those burning with a laudable zeal to help formulate and execute the foreign policy of the United States should spend years issuing visas, making up payrolls and running motor pools. All of these latter tasks have to be done but they do not need to be done by MA's and PhD's, or even by AB's. People qualified to do them and respected and compensated for doing them should be separately recruited, locally insofar as possible, at home when necessary.

In the second place, difficult as it is to operate an effective personnel system that embraces the globe, other governments and many great corporations do so. As far as the well-being and morale of junior officers is concerned, what is required are primarily three elements.

The first is the one we have already mentioned—access to interesting and important

work commensurate with the ability and training of the officer. This access should not be inhibited through work assignments either rigidly imposed by the Department or capriciously altered to suit the convenience of the post. The first fault can be corrected by giving the Chief of Mission reasonable discretion in shifting assignments, the second by frequent inspections during which junior officers are given a sympathetic hearing.

A second element is of course rapid promotion for those who demonstrate ability, initiative, energy and imagination. This will lead to sharp inequalities in promotion because people are unequally qualified, but it will also lead to attrition from the Service of the least qualified rather than of the best.

A third element of an effective personnel system for young officers far from home base is the consistent display of sympathy, understanding and support by their immediate superiors and responsible chiefs. The latter, plus the inspectors, must be the advocates and protectors of the former vis-à-vis "the system," and the system must be set up to take prompt account of their appeals to correct maladjustments, to settle grievances and to forestall discouragement.

It would be a very great tragedy if the Foreign Service, just when the country needs it most and when it offers in fact the most brilliant opportunities, should be eroded at the base through failure to take advantage of the zeal, ambition and expectations of its best qualified and best trained young officers.

CHARLES W. YOST.

NEW YORK.

COLLEGE CAMPUSES DISTURBANCES

Mr. AIKEN. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "They Have No Right," relating to college campus disturbances, and published in the Reformer of Saturday, April 27, 1968.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THEY HAVE NO RIGHT

The past week has seen a number of college campus disturbances in which the new breed of student has flexed his new muscles in one demand or another for change at the halls of ivy.

More often than not, the demands have been for more Negro scholarships, more curriculum aimed at understanding Negro heritage—or some sort of effort beneficial to the Negro.

It is no secret that this newspaper has championed the Negro's struggle for an equal position in American society; championed various modern urgings of the rebellious collegian, too. And we are proud of it.

But there is something manifestly wrong in the kind of campus unrest that finds collegians taking control of administration buildings at the nation's colleges and universities. There is something manifestly wrong with a minority of ired college students forcing suspension of classes.

Although it is the right of students as well as other citizens, protest has its reasonable limits.

Protest—and, in this case, the demands that have triggered protest—should not be allowed to replace the administration of higher education. College administrations run colleges and universities. Students do not. And they should not. That is not their function, nor their capability.

Furthermore, just as Freedom of Speech ends at the point where a fellow's fist meets another's face (or something like that, as someone once said), protest must end short of curtailing educational opportunity for those who want that opportunity and do not happen to agree with those who want to bring a grinding halt to learning for the sake of winning a cause.

Demonstrating college and university students with a cause on their shoulders have no right, whatsoever, it seems to this newspaper, to force a halt—temporary, though it may well be—in the educational endeavors of fellow youth who are not sympathetic and who have spent good money to better their minds and prepare themselves for life.

ECONOMIC IMPACT OF POLLUTION ABATEMENT

Mr. PROXMIRE. Mr. President, I just read two interesting reports from the Federal Committee concerning the economic impact of pollution abatement which should be of interest to all of us. The reports are entitled "Cost Sharing With Industry?" and "The Secondary Impact of Air Pollution Abatement." The committee which conducted these studies was created by Presidential mandate, and its Chairman is Dr. Jack W. Carlson, who is with the President's Council of Economic Advisers. The Committee has representation from most of our Federal agencies.

The reports bring out the following information:

First. The cost of water pollution abatement to industry is not likely to be high: only about one-fourth billion dollars annually or one-eighth of 1 percent of value-added by manufacturing companies each year. In contrast, labor costs alone went up by 5 percent, or 40 times as much, last year.

Second. The cost to abate air pollution—sulfur oxides and particulates—by 60 to 75 percent was estimated to be about three-fourths billion dollars per year. About $350 million of this could be a burden for industry and this amount would be only one-sixth of 1 percent of the value-added by manufacturing companies each year.

Third. Because average costs of abatement for industry are low, the reports recommend assistance only in the case of hardship, which the President has recommended in his own message on conservation and water management.

Fourth. The reports recommend against the use of tax credits or accelerated depreciation allowances above those already provided.

Fifth. Costs of abatement can double and even quadruple if abatement of all waste loads is pursued instead of just the abatement of harmful wastes. This is evidently true for both water and air.

I recommend a reading of these reports by Senators. They should enlarge our understanding of the best ways to manage environmental problems.

NEW TOOL FOR NEW TOWNS

Mr. HANSEN. Mr. President, the New York Times today contains a thoughtful editorial concerning legislation to be proposed to assist in the building of "New Towns."

The idea of new towns is being discussed often these days, both publicly and in private. Former President Eisenhower has recently written of the urgency for new town development as a realistic plan to eliminate the slums.

I am hopeful that Congress can move in the directions suggested by President Eisenhower and the New York Times. Readers of the RECORD should find the editorial both timely and challenging. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NEW TOOL FOR NEW TOWNS

The movement to ease urban problems by developing new towns has won an influential convert in former President Eisenhower. In a Reader's Digest article, he calls such towns "the first essential" in any realistic plan to eliminate the slums.

Yet one of the outstanding international attempts at new town development, Reston, Va., went down the real estate drain last year when its founder, Robert E. Simon Jr., was licked by the economics of a system that has no place for this kind of farsighted environmental plan. When payment could not be met on the large capital loans required for the long-term design and comprehensive facilities that are the backbone of any genuine new town effort, the venture was taken over by its chief investor, Gulf Oil, which promptly set its sights on a more conventionally marketable product.

At no time in that critical initial stage when capital must be plowed in and profits are a long way off was Federal aid available. But now, spurred by a failure that this country can ill afford, Federal legislation is being planned to make this type of new town possible by vastly expanding the resources of private development. A major new financing device known as the "Federally guaranteed cash-flow debenture" would authorize Federally guaranteed bonds large enough to cover heavy preliminary costs and to insure repayment of interest charges on loans, a factor of particular importance during the early, generative period when "patient" money is needed.

To most city specialists the fate of the Reston experiment was the great American planning tragedy of the sixties. But an even greater tragedy lies in the answer that so many members of the building and financial community gave to the question: What went wrong? Variations of "This just proves that the Reston idea won't work" added up to a smug acceptance of the normal commercial subdivision, in spite of its proven inadequacies in land planning and community design, because it repeats acceptable profit formulas. This standardized building process relentlessly reinforces the country's racial and economic ills.

What really doesn't work is present practice. The evidence is overwhelming in both cities and suburbs. Although the proposed legislation is one real answer to new towns, it will not work either if they are not planned as open communities for a full range of low- to high-income housing. Thus conceived and built, they hold great promise for the beleaguered cities.

The Federal Government may yet be providing an essential economic tool and badly needed perspective for those who confuse the *status quo* with destiny. Success may yet come from the Reston defeat.

HUMAN RIGHTS NEED INTERNATIONAL LAW

Mr. PROXMIRE. Mr. President, United Nations Secretary General U Thant once said:

In the philosophy of the United Nations, respect for human rights is one of the main foundations for freedom, justice and peace in the world.

I too feel that human rights are so basic to world peace that it no longer is enough to state them as principles to be considered; now they are considered so essential that they must be implemented by means of international law.

It was Bruno V. Bitker, now a member of the President's Commission on the Observance of International Human Rights Year, who once told the Committee on Foreign Relations:

By its heritage and its ideals, because of its good will toward all mankind and its desire throughout the world, the United States has assumed international responsibilities. It now has the opportunity and the obligation to vigorously continue to advance the cause of human rights and fundamental freedoms everywhere on earth.

Bruno Bitker appeared before the committee at that time as Chairman of the Committee on Human Rights of the U.S. National Commission for UNESCO.

I hope Mr. Bitker's words will serve as an effective impetus for the worldwide battle for human rights and that they will help lead to the long-overdue ratification by the Senate of the Human Rights Conventions on Forced Labor, Freedom of Association, Political Rights of Women, and Genocide.

THE SAVANNAH, GA., COMMUNITY IMPROVEMENT PLAN, MONDAY, APRIL 29, 1968

Mr. TALMADGE. Mr. President, one of Georgia's most distinguished citizens and leading bankers, Mills B. Lane, Jr., has developed a noteworthy plan of community improvement for the city of Savannah, Ga.

The plan was formulated in conjunction with a number of Negroes in business and in professions in Savannah, as well as other citizens, in an extremely worthwhile effort to promote a spring "clean-up" in slum areas and similar sections of the city, with the active participation of the residents and homeowners involved.

It is especially commendable that Mr. Lane has particularly enlisted the assistance of students at the two State colleges in Savannah, as well as the high schools and churches in the involved areas. As Mr. Lane puts it:

This entire clean-up effort is being based on the premise that young people can and should work together, that many hands make light work and that the entire operation can be fun for everyone concerned. It is not paternalistic in its concept, but rather is based on joint participation on a voluntary basis of everyone in town, both Negro and white. The future of our country is in the hands of the youth of our land and from this joint exercise we hope that there will develop mutual understanding and trust, a sense of awareness of conditions and problems and from it, a desire to improve opportunity.

Also, in connection with this project, Mr. Lane, president of the Citizens and Southern National Bank, is establishing the Citizens and Southern Community Development Corporation into which the bank will put $1 million in capital to provide funds for homeowners and equity capital for new small businesses.

Also, a $5,000 award each will be made to the college, the high school, and the church which is judged to have done the best job in its assigned area, thereby developing a competitive spirit between the participants in the two main clean-up areas, one on the east side and the other on the west side of the city.

Mr. President, this is an outstanding example of how private businesses in local communities can provide leadership for local people in helping our less fortunate citizens help themselves. I can concur wholeheartedly with Mr. Lane that, if the Savannah plan is a success and if similar plans were adopted and carried out throughout the country, we could indeed change the face of America. This is the kind of community action that we need in cities and towns all across the Nation. This is the kind of community action that gets lasting and meaningful results, and in which people themselves can take great pride.

In my judgment, we have had far too much moaning and groaning about conditions in our cities and not enough positive action by business and civic leaders and the people who live there to do something about it. For example, if some of these people who are about to descend on Washington, D.C., and demonstrate and build shanties would go back to their communities and channel their energies through the business end of a hammer and broom and paint brush, a great deal more could be accomplished than by staging a sit down in front of the White House.

I ask unanimous consent to have printed in the RECORD a detailed explanation of the Savannah plan, I highly commend it to the attention of the Senate.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE SAVANNAH PLAN

The Savannah Plan is designed as a practical demonstration to show that any community can, with no government assistance but on a do-it-yourself basis, revitalize its living and business environment.

BASIC ASSUMPTIONS

1. Two of the fundamental meanings of democracy are (a) government by reason, not by force (b) the most good for the most people.
2. Everyone wants to improve his standard of living.
3. The incentive method is the best way to accomplish things.
4. Government steps in to fill needs when business does not.

GENESIS OF THE SAVANNAH PLAN

Over the past year on Saturday and Sunday mornings I've cruised the slum areas of Savannah street by street, lane by lane. Streets are unpaved, backyards are filled with the rubble and accumulation of years of trash. This includes old rusted automobiles sitting on concrete blocks, obsolete refrigerators, stoves, washing machines, automobile tires. Trash and litter dominate the scene. Fences for the most part are make shift affairs, mostly made of leftover tin sheeting.

One morning last fall I met with a group of twenty business and professional Negroes, both men and women. I told them the story of my cruises of Savannah's slum areas, suggested that instead of us demanding this and that of government, we undertake jointly a master clean-up of the existing slum areas as a first step toward a do-it-yourself revitalization of living conditions. From this meeting and subsequent meetings has developed a plan for what we call "Spring Cleaning in Savannah," with a focal day being Sunday, May 19.

"Spring Cleaning in Savannah," as well as the extension of things that we will do after spring cleaning, are all being perfected around the three institutions that are most basic to our American Society—(1) the home (2) the church (3) the school.

The execution of the plan is designed to follow the well tried and successful community type of house to house, street by street, block by block organization.

PUTTING THE PLAN INTO OPERATION

Savannah has two state colleges, Savannah State College which is Negro, and Armstrong State College which is predominantly white, but integrated. The Presidents of these colleges were asked to serve as two of the general chairmen of the spring cleaning in Savannah undertaking.

Each college president has met with his student body, reviewed the background and detail of the plan, and enlisted students as volunteer workers.

Meantime, two areas of Savannah were laid out, one on the east side of town, one on the west side of town. A temporary office was opened in downtown Savannah and staffed by volunteer workers. In this office, full maps of each of Savannah's two areas were laid out showing each street, each lane, each house. These houses are then identified as either owner occupied or tenant occupied. Two separate teams were established for the east side of Savannah and the west side of Savannah. Each team is headed by a school principle in each area. The minister of a church, team chairmen are both Negroes and whites.

At the moment, the organization is progressing. In each area all teachers in all schools are to hold a meeting to receive a briefing on the plan and they, in turn, are to take one day for classroom meetings with all children to seek their individual participation in the clean-up program and, as well, to return home that evening to tell their story to the people at home, returning to school the next day with a participation card signed by parents. From these cards the Headquarters Office will check off all houses street by street.

The same process is to be repeated by a meeting of all clergymen in the area, in turn followed by one Sunday devoted in each church to describing the plan and again obtaining participation cards which will then be checked off, house by house, at Headquarters Office.

In the meantime, the volunteer students at the two colleges will be paired off in teams of two—one team member from Savannah State College, one team member from Armstrong College. Each is to be assigned one street. The assignment of the team is to call house by house, both on those who have already signed a participation card and those who have not signed a participation card, to enlist their cooperation.

From the residents on each street, the team is to select a street chairman. The next assignment is to take an inventory of the junk and trash to be hauled away.

While this is going on a presentation of "Cleaning up Savannah" is to be presented in a half-hour television program and at presentations to civic clubs. It will be the task, then of volunteers at the Headquarters Office to solicit all businessmen in Savannah who have automotive equipment, asking each to furnish one or more of his company's trucks for the May 19 clean-up day. Based on the street by street inventory of what has to be hauled away, trucks will be assigned to each street.

On Sunday morning, May 19, all of the trucks will line up with volunteer workers

aboard, each of whom will wear a special shirt as a uniform. The parade will go down the middle of the town with trucks turning to right or left to their assigned streets.

Arrangements have been made for a central dumping area for all trash except junked automobiles. With the cooperation of riverboats that have barges, junked automobiles will all be put on the barges to be towed out the Savannah River to a point offshore where they will be dumped to create an offshore fishing drop.

This entire clean-up effort is being based on the premise that young people can and should work together, that many hands make light work and that the entire operation can be fun for everyone concerned. It is not paternalistic in its concept, but rather is based on joint participation on a voluntary basis of everyone in town, both Negro and white. The future of our country is in the hands of the youth of our land and from this joint exercise we hope that there will develop mutual understanding and trust, a sense of awareness of conditions and problems and from it, a desire to improve opportunity.

In the cruising I've done of Savannah's back streets I've seen a great need for garbage disposal containers, better fencing. So, funds have been provided for the purchase of 5000 garbage cans and aluminum box containers for garbage cans and, as well, a considerable amount of aluminum fencing. As the house to house organization is underway, garbage cans and containers, plus fencing, will be offered to each house occupant for installation on a do-it-yourself basis and a pledge to clean up and stay cleaned up.

The Savannah Spring Cleaning Operation is designed as but a first step for a repeat of the same clean-up in all the other areas of Savannah and then the beginning of a short range and long range plan of the improvement of existing housing, new housing, job training and job opportunities.

The Citizens and Southern National Bank is establishing The Citizens and Southern Community Development Corporation into which it will put $1,000,000 in capital. The two essential operations of the Community Development Corporation are to provide funds for home ownership and equity capital for new small businesses.

In Savannah, as throughout the State of Georgia, less than 5% of the low income population own or are buying their own home. Because of low incomes, individuals have not been able to accumulate savings to make down payments on homes and hence, be able to obtain first mortgage money for home financing, and yet, the level of rents paid is sufficient for mortgage payments. It will be the plan of the Development Corporation to provide down payment money in the form of second mortgages so that first mortgage financing can be obtained. The Citizens and Southern National Bank itself has dedicated an initial $10,000,000 for long term first mortgage home financing for low income groups.

Two demonstration projects are being undertaken by the Development Corporation. The first is the purchase of some existing but reclaimable rundown slum area property. The purpose is to test the economics of renovation and then sale to individuals. The second experiment is the design and building of a brand new housing unit complete with all fixtures, equipment and furniture that can be sold and financed.

A firm belief of this long range plan is that home ownership can be a key to better family living, better citizenship and appreciation of the value of property.

In addition to perfecting plans that will stand up economically for home ownership, will be a modernization loan plan to property owners to improve existing properties.

Owners of existing low income housing have allowed property to deteriorate and claim that they cannot afford to spend the money necessary to improve the property because the rental returns would not justify it. We believe at the present time that low income housing landlords are being squeezed on the one hand by urban renewal and slum clearance, and on the other side by public housing. We hope that our plan for home ownership will add a third pressure in the form of competition that, in effect, will require low income housing landlords either to improve their properties to meet competition or see them go by the board.

Through the schools and the churches in both Savannah areas we expect to offer assistance in the improvement of existing recreation facilities and the addition of new ones.

On a do-it-yourself and participating basis we expect to start pilot day care units for small children, staffed by volunteer workers. The time when children were raised by grandmothers and greataunts is going by the board. It's important that young children not be left to roam the streets unattended, but be given some chance for organization and direction for it is in these early formative stages that character is developed. It's insufficient to attempt to tackle the juvenile problem at ages 16 to 17. It must be started earlier.

The beginning of the Savannah Plan and its future extensions are based on helping people help themselves. The difference in the perfection of this approach from others who express the same belief, is that those who have are going to make the first move as the Negro Mayor of St. Louis said on Meet the Press, "How can people pull themselves up by their boot straps if they don't have any boots?" In the concept of the Savannah Plan we're going to provide the boots. We're going to offer opportunity and hope and try and create an environment where there is mutual trust, understanding and respect; where the basis of human relations is built on the dignity of man, the Golden Rule and the concept that it's what a man is, not who he is that matters.

As an incentive to performance of the competing teams for the east side of Savannah and the west side of Savannah, we've told the Presidents of the two colleges that the one whose student body does the best work will receive a $5000 award to be used as the President of the college sees fit in any way for things needed at his college. A similar $5000 award will go to the principal of the school in each area to be used as he or she thinks best for all of the grade and high school areas in the area. A third award of $5000 will go to the churches in the area that does the best job of church participation. This plan was all laid out at one of the initial meetings and when we came to the end of the meeting we stuck our tongue in our cheeks and said that as in all competition, in the event of a tie, duplicate prizes will be awarded. My guess is we'll be making duplicate prizes.

We feel so strongly that the Savannah Plan can be a demonstration that could be repeated in every city in the country that a moving picture company has been employed to make a documentary colored movie that can be shown on a national television and elsewhere in a thirty-minute performance. The movie company is already at work, has shot considerable footage and believes firmly that the finished product will tell a stimulating story.

If the Savannah Plan is successful, both long range and short range, and is repeated throughout the country, we think that it can change the face of America. We think it can create an atmosphere of hope, encouragement and an attitude that can let us all return to the sheer joy of just being alive.

MILLS B. LANE, JR.

THE OUTLOOK FOR OIL SHALE

Mr. HANSEN. Mr. President, one of the most responsible and thoughtful experts in the field of mineral and fuels development is Russell J. Cameron, of Denver.

Last week Mr. Cameron delivered a paper, entitled "The Outlook for Oil Shale," before the American Association of Petroleum Geologists and the Society of Economic Paleontologists and Mineralogists, at their annual meeting in Oklahoma City.

He puts the controversial question of oil shale development in proper perspective. Because I believe his remarks would be of interest to readers of the RECORD, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

THE OUTLOOK FOR OIL SHALE

(By Russell J. Cameron)

Harry K. Savage, one of the oil shale pioneers, recently published a book entitled, *The Rock That Burns*. In his account of the early efforts to begin an oil shale industry Mr. Savage had this to say.

"In 1920 interest in oil shale was running high. The most competent petroleum authorities were pessimistic about future supplies of petroleum, the price of which had risen to $3.50 per barrel . . . There was a strong presumption that shale oil production was inevitable".

With Gulf cost crude oil by Capline to sell in Chicago for $3.60 per barrel, is this long delayed presumption finally to become fact?

Mr. Savage also wrote:

"From 1905 to 1920 there was bitter controversy over whether natural resources should be owned by the United States government and developed by governmental agencies or owned and developed by private enterprise".

So what has changed? One has the feeling that the present situation is a rerun of the past; different players, but the same plot; another era but the same problems.

In attempting to appraise the outlook for oil shale one is sobered by our lack of accomplishment in developing such a potentially important resource during the past 50 years. Yet proponents of shale oil have reasons for optimism. Despite the persistent problems that from decade to decade never seem to have solutions, an element that heretofore has been lacking, seems to be emerging. That element is desire; a desire to get past the peripheral issues and see where oil shale does fit in our energy equation.

For the short-term, oil shale still seems likely to continue to face problems that have long beset it. These problems however, are more of policy than of economics, more legal than technical, and some are more imaginary than real, but nonetheless, they are problems that must be solved before oil shale can become significant, and many must be solved before an industry can begin.

The long-term outlook has never been brighter. Perhaps the greatest deterrent to oil shale's development in the past has been the absence of a clearly defined need for its development. Now, modern society's unprecedented appetite for energy and oil's essential role in the energy supply, have made it apparent that large new sources of domestic oil must be developed. Most believe that oil shale will be one of these sources.

It will be my purpose today to recite some of oil shale's perplexing problems, to indicate possible solutions, then give you a pre-

view of the ultimate oil shale industry as I see it.

THE PROBLEMS

There are basic questions of national policy that are being debated with oil shale as a focus. Should private enterprise be assigned its traditional role in resource development, providing technology, capital, and management with government responsible for regulating the industry and maintaining a healthy atmosphere for the investment of private capital? Or should government undertake the development of an oil shale industry through a Comsat-type corporation, or a TVA, or an AEC, or some new concept of government enterprise? What mechanism for industrial development best fits this particular task? Is private enterprise defaulting? Will government initiative be required? Are incentives lacking to attract private investment?

Industry and government have been seesawing over these questions for twenty years. During World War II and immediately after, government began research to bring modern technology to the century-old production techniques for shale oil. Industry generally was apathetic and even hostile, and development lagged. Early in this decade industry began the initial steps to establish an oil shale industry but has encountered a negative and suspicious governmental attitude.

Boards, committees and task groups have been appointed to study and make recommendations. Report after report has been written but no enunciation of policy has resulted. The impasse is best illustrated by the findings of Secretary Udall's Oil Shale Advisory Board, a six-member panel of distinguished citizens that studied the oil shale policy problem for more than a year, then, in effect, submitted six minority reports to the Secretary.

Presently oil shale policy is being considered separately by the Energy Policy Staff recently set up in the President's Office of Science and Technology, by the Public Land Law Review Commission, an agency of the Congress, and a special interagency group within the Executive branch composed of representatives of the Department of the Interior, the Bureau of the Budget and the Council of Economic Advisors. And at least two bills have been introduced in the Congress on the subject.

When will the studies cease? When will some sort of policy decisions be made? By whom? Or will events force a course of action that will then be defined as policy?

Probably the basic cause of the difficulty in arriving at an oil shale policy is the role of government in the development of the resource. And the part of private enterprise. Is government to play its traditional role as overseer of a competitive industry and as a landlord supervising the wise utilization of a natural resource? Or as some suggest, will government be a participant, a shareholder, a financier, or even establish a state-owned enterprise? An implied distrust of industry and of competitive free enterprise by those influencing policy is a serious deterrent to the initiation of shale oil production.

Government domination of the development of this resource surely will be opposed, but industry has not effectively presented its case. Industry is somewhat like the herd of jackasses that formed a circle to protect themselves from attack by wolves. However, instead of putting their heads together and kicking hell out of the wolves they put their tails together and kicked hell out of each other. If the diverse elements that make up the petroleum industry do not put their heads together and take the initiative, there will be a government-dominated, if not government-operated oil shale industry.

It has been suggested that oil shale development be a partnership of government and industry. I personally do not feel that industry's role in the development of any resource should be merely that of a government contractor unless dictated by some aspect of national security, such as may be present with atomic energy. Even then each specific instance should be thoroughly examined. With oil shale I do not see this need.

Much has been said of the legal problems surrounding oil shale lands. They arise from the fundamental complexity of the customs, laws and regulations dealing with land and minerals that have evolved over the past 100 years. Laws that were designed to divest the Federal government of lands run headon into policies that now seek to retain the land and its minerals. As one body of law replaced another, as mining claims gave way to mineral leases, inevitable conflicts developed. Constitutional questions have arisen over the inviolability of property and several Supreme Court decisions have become part of oil shale's legal fabric.

This is not the forum to delve exhaustively into the various remedies that might be possible for the resolution of disputes between the government and owners of unpatented mining claims, nor even to examine the equities of last year's proposed oil shale leasing regulation, one that industry considers unacceptable. However, one must question the wisdom of a course of action that has seen thirty-eight years pass since the withdrawal of oil shale lands for "examination, classification and evaluation", with the lands still withdrawn and so many questions still unresolved.

Now, other potentially valuable minerals have been discovered in quantity in the richest Colorado oil shale beds. Among these are nahcolite, a form of naturally occurring sodium bicarbonate and dawsonite, a carbonate of sodium that contains chemically combined aluminum. Are these substances leasible under the mineral leasing statutes or locatable under the mining laws? Are they a part of the oil shale thus leasible only as oil shale or should they be treated separately from a legal standpoint? How can a potential developer obtain lands that contain an ore with optimum values of sodium, aluminum and hydrocarbons, thus enhance the economics of an otherwise marginal, low-grade mineral? Today there is no way.

A year ago Interior Solicitor Barry mentioned the "legal underbrush" that surrounds oil shale. A few months later Secretary Udall described the situation as a "legal thicket". If this is recognition that legal problems are increasing faster than solutions, I can agree. While more effort and attention has been aimed at clearing oil shale's "legal jungle" it is far too little and maybe too late.

Perhaps a phenomenon of the emotionally-charged atmosphere that pervades the country today is the emergence of various Paul Revere groups that have begun noisy, if poorly-informed campaigns to arouse the public over the eminent theft of one of its birthrights—the $25,000 worth of shale that belongs to each citizen. While these possibly well-intentioned watchdogs of public welfare continue to shout loudly about the supposed value of this resource they fail to say that it may cost most of the $25,000 and entail considerable risk to realize any value whatsoever.

Joining the economists who can't seem to comprehend simple arithmetic are others who fear for the destruction of the landscape, the creation of new pollution hazards and especially the filling of dry arroyas with waste rock. Since I live in Colorado I share some of this concern and I am among those who demand and will continue to call for the strictest control of the industry from the standpoint of waste, pollution, and conservation. However, the hysteria and alarm expressed by those who insist that not a sagebrush plant be disturbed is wholly unwarranted and must be dispelled in the public mind.

The oil shale industry will be enlightened and responsible. The abuses that have characterized some industries in the past, mining especially, are not going to be tolerated. But industry must tell the public how it intends to dispose of spent shale, gaseous wastes, and potential water pollutants and do so in some detail. This effort should be underway now and cannot long be postponed.

The final problem area I will touch upon is that of technology. Little progress has been made in the demonstration of a viable means for shale oil production. The retorting processes conceived in the early postwar period 15 years ago or more, which showed promise then and which appear feasible now, still are untested on a full scale.

The concept of *in situ* production, heating the shale in place, is still no more than a concept. No practical method is known to exist nor is one likely to be ready for use in the near future—nuclear or otherwise.

We couldn't begin commercial shale oil production now without considerable technological risk even if all other barriers were removed and it may be 5 or even 10 years before an adequately demonstrated technology is available. In this unsettled, politically-sensitive world of ours a decade could be a critical period of time.

Fortunately some wheels are in motion to provide a technology that will enable private capital to finance the industry and entail no more than normal commercial risk. I hope there is time. If not, the almost inevitable result will be a government-financed and government-controlled industry, a prospect I do not relish.

To sum it up, oil shale has myriad problems for the near-term. To point the finger entirely at government would be unfair and incorrect. The petroleum industry must carry its share of the blame. Its error is one of neglect and omission—of neglecting to provide the energetic leadership it should in the development of a major petroleum resource. It is the error of the railroads in ignoring or opposing buses and airplanes—of forgetting they were not only in the railroad business but more basically were in the business of providing transportation.

I hope my optimism is justified that oil shale's current problems are superficial, largely self-created and will have little bearing on the future benefits the resource can provide. If this be the case let me undertake to sketch the silhouette of a fully developed industry.

THE FUTURE OIL SHALE INDUSTRY

It is entirely conceivable that oil shale will become a national and eventually an international source of petroleum products. This is contrary to a concept I have held for some time, that shale oil would be for the foreseeable future a regional source of oil. While the capital requirements alone will dictate a gradual build-up of productive capacity, the level of production can and should be several million barrels a day toward the end of this century.

Contrary to another concept I have taken for granted in the past most of the output will be from gigantic open-pits not underground mining of the high-grade seams. *In situ* production, if employed at all, will be limited.

Shale oil from 1,000,000 tons per day open-pit mines will be competitive with oil produced anywhere. Operators of open-pit copper mines presently break, load and haul rock for less than 20¢ per ton. Shale oil production costs of $1.00 per barrel are clearly in view for large surface mines operating on the 1000–2000 foot zone of Piceance Basin shale.

As much as 300 square miles of the Piceance Basin has thick beds of oil shale with in-place reserves of more than one bil-

lion barrels per square mile in ore yielding 25 gallons of oil per ton. From such a reserve we could produce at least 10 million barrels of shale oil per day for a hundred years with additional production from lower grade shales and thinner beds of rich shale. The current daily output of oil in the United States is about 10 million barrels.

The key to these new vistas for oil shale is the almost unnoticed breakthru in materials handling that has taken place in this past 20 years. Large efficient, fast-acting electric shovels and draglines, some with more than 200 cubic yards bucket capacity, are revolutionizing mining and earth moving. When the need develops a 500-yard shovel can be built.

Caterpillar-tracked crushers are in use that can follow the loading machine to reduce the rock to sizes that can be transported more efficiently. Two hundred thousand tons per day can be moved on a single high speed conveyor belt. Computer-operator unit-trains without anyone aboard that automatically load and unload can move bulk materials for mils per ton mile.

Systems using proven methods and equipment can be designed now for the mining, crushing, sizing and delivery of oil shale from large open-pits to processing plants at lower costs than we have ever dared predict. The cost of ore per barrel of oil should be less than half that estimated for underground mining of the high-grade Mahogany zone.

Open-pit mining will allow the closest possible approach to the recovery of all economic values from the resource. Low-cost mining allows a lower grade ore cut off point and little or no ore will be left in the mine. Zones containing recoverable quantities of other minerals can be segregated for separate processing. If recovery of all the associated minerals is not practical for lack of market or other reasons, the spent shale can be stored separately for processing at a later time.

The disposal of solid wastes from these gigantic mining operations—tailings, spent shale and overburden—probably will be the most serious question in the public mind. From an engineering standpoint the problem has several solutions but intensive study will be necessary to choose those that will be acceptable both in the short and the long-term. Fortunately a large area of arid low-valued land with minimal agricultural possibilities lies at a lower elevation near the thickest part of the Piceance Creek oil shale deposit. This area, essentially all of which is public domain, must be dedicated to waste disposal until mined-out areas can be used for this purpose. Experiments this last decade has shown that spent shale will support vegetation, thus filled-in areas ultimately can be converted to agricultural use.

Another problem is water—for the industry and its people. In the oil shale areas the Colorado River and its tributaries are almost the sole water supply and downstream demands are heavy. There is now water available for a sizeable industry, perhaps a few million barrels of oil per day. Water conservation measures can be used to extend the supply. Ultimately, however, the importation of water from other river basins will be essential not only for oil shale but for the growing needs of the arid southwestern part of the country. Plans already have been developed for transferring surplus water as far south as Texas, from the Missouri, the Columbia and even from rivers that flow into the Arctic Ocean. The same revolution in earthmoving that makes possible low-cost shale oil, makes these water projects feasible.

I return to two final problems, one technical, the other political. To make shale oil a significant factor in our petroleum supply when the need arises, we must accelerate our efforts to demonstrate a suitable retorting technology. To match our mining achievements cost-wise, we must have comparable large-scale high-efficiency retorts—at least 10,000 tons per day for a single unit. Most concepts of commercial retorts aim at this scale but the largest plant yet tested had only one-tenth this capacity. We see no insurmountable technological problems in buildings these super-retorts but reason suggests a progressive scale-up to maximize size—something that will take a period of years. It's past time we got on with the task.

The political question is how to make these prime oil shale lands available for development. Not only is the logical area for waste disposal in the public domain but practically all the oil shale lands suitable for large-scale, open-pit mining are held by the Federal government in a withdrawn status. No development such as has been described can take place without access to Federal lands.

It can thus be seen that the key to low-cost shale oil on a scale large enough to be of national significance is political. If private enterprise is to be the producer of this oil, industry's voice must be heard clearly and without equivocation both by our political leaders and by the public. And action will be more effective than words.

The stakes are too large for any further neglect, deferment or disinterest by the private sector. Should the public come to believe that industry will not or should not do the job, government will get the call. Or, as with synthetic rubber if some emergency should propel the government into shale oil production, industry may never regain its primary role.

PRESERVING THE COUNTRY AND THE DOLLAR

Mr. SYMINGTON. Mr. President, as my colleagues know, for many years I have expressed apprehension about the increasing problems incident to the value of the dollar.

In that connection, I ask unanimous consent that a constructive editorial from the Kansas City Star of Wednesday, April 24, "Preserving the Country and the Dollar," be inserted at this point in the RECORD.

I also ask unanimous consent that a column by Edwin L. Dale, Jr., in the New York Times of Sunday, April 28, entitled "We May Be Heading for a Crisis" be inserted at this point in the RECORD.

There being no objection, the editorial and article was ordered to be printed in the RECORD, as follows:

[From the Kansas City Star, Apr. 24, 1968]

PRESERVING THE COUNTRY AND THE DOLLAR

The word from Washington is that Senate-House conferees are moving toward some kind of agreement that would limit spending and make possible the income tax increase. We hope this is so. If the tax increase has any validity as a means to head off inflation, the sooner it comes, the better. It was first proposed before the 1966 election.

But there is other word from Washington that the whole situation is in a state of confusion; that Wilbur Mills (D-Ark.), chairman of the conference committee, and George H. Mahon (D-Tex.), chairman of the House appropriations committee, haven't been able to get together. Mills also is chairman of the House ways and means committee where the orginal House tax bill has been stalled since last fall.

The conferees now are considering an increase in the form of an amendment placed by the Senate on another tax bill. And the House, of course, is unlikely to look with favor on any revenue measure orginating in the Senate which, for all practical purposes, the income tax amendment did.

But behind the maneuvering and apparent confusion is a very serious debate on the government expenditures that would be reduced. The budget cuts are the key, and we doubt whether there can be any easy answer. And again, the cleavage between the House and the Senate is obvious. It was easy to see last week in the fuss over the additional 100 million dollars the Senate wants to put in the Head Start program and summer jobs for youth. The money was removed at the insistence of House members of a conference committee. The Senate rejected the compromise and instructed its conferees not to yield in further negotiations.

So the tax question and the agreement on expenditure cuts that must precede it are waiting on decisions as to what this country can afford to do in welfare, education, health, foreign aid, space, defense and agriculture. Or, perhaps more accurately, where this country can afford to make cuts.

Unless the dollar is preserved, nothing the United States hopes to do at home or abroad can be accomplished. But unless the United States is preserved, any discussion of the dollar becomes academic.

[From the New York Times, Apr. 28, 1968]

WE MAY BE HEADING FOR A CRISIS

(By Edwin L. Dale, Jr.)

WASHINGTON.—An optimistic central banker has been described as one who believes the situation is deteriorating somewhat less rapidly. William McChesney Martin Jr., the United States central banker par excellence, fits the description perfectly if one judges him from his periodic utterances that are scarcely known for their rosy view of the world.

The latest pronouncement from the chairman of the Federal Reserve Board is that the nation is "in the midst of the worst financial crisis we have had since 1931." Three years ago he found "disquieting similarities" between the then-existing situation and 1929, the year of the great stock market crash.

There is no doubt of Mr. Martin's sincerity, and there is equally no doubt that a large number of businessmen and bankers, and a growing number of members of Congress, share his sense of alarm about the nation's finances. What, then is the situation?

At the outset, it must be noted that the word "crisis", unfortunately, is imprecise.

As Mr. Martin himself made clear, there is no crisis of the "depression" type. There are jobs for nearly all who want them, business sales and profits are booming and the total production of goods and services is growing briskly.

INFLATION A SERIOUS PROBLEM

Some would say there is a crisis on the inflation front. Prices are now rising at the pace of 4 per cent a year, much faster than before 1965 and a little worse than the inflation rate of most other industrial nations. Wages, going up at a rate close to 6 per cent, are pushing prices higher.

But a 4 per cent inflation, while troublesome, does not in most minds warrant the term crisis. Brazil, Turkey, even Japan would be happy to settle for 4 per cent, as would dozens of other countries.

Close to what Mr. Martin had in mind is the nation's financial markets, and in particular interest rates. Because the mammoth deficit in the Federal Government budget has piled $20-billion of additional borrowing demand on top of an already heavy demand from business, home-buyers, consumers and state and local governments, interest rates have risen steeply in the last three years to levels not seen in some cases for a century.

And yet money can still be borrowed. There

is no crisis in the sense of a "freezing up" of the money markets and certainly not in the sense of bank failures. The economy could not otherwise be so prosperous. The Government has financed its deficit and most other borrowers have been able to find the funds they need, though whether this can continue with a second huge budget deficit is uncertain.

Finally, closer still to Mr. Martin's sense of alarm is the nation's balance of international payments and loss of gold. If the payments deficit is not greatly reduced or eliminated, at some point the dollar's international value will have to be reduced, with potentially disastrous consequences for the whole international monetary system, and hence world trade and investment.

TRADE DEFICIT INCURRED

The problem was pointed up last week when the Commerce Department reported that the surplus of merchandise exports over imports disappeared altogether in March as imports continued to boom and exports fell off, partly because of the 11-day New York dock strike.

Many observers believe that the balance-of-payments situation comes closest to warranting the word "crisis." But even here, the nation still has $10.7 billion of gold left despite the recent heavy losses, and the dollar for the time being is reasonably strong in the foreign exchange markets.

It may be that what Mr. Martin really meant to say was that the nation faces the greatest danger since 1931—danger of even more rapid inflation, danger of superboom turning into a bad recession with rising unemployment, danger of still higher interest rates with a sharp impact on homebuilding, danger of a further worsening of the balance of payments because of the overheated economy at home and its impact in sucking in more and more imports.

A great majority of financial observers agree with Mr. Martin that the dangers in the situation call for one key remedy: a reduction in the budget deficit through a tax increase and whatever expenditure reduction is possible. This would curb demand in the economy and thus lessen inflationary pressure, would reduce the need to borrow and hence ease interest rates and would improve confidence in the dollar abroad.

By most definitions, there is not actually a crisis now. But there could be one.

CASPER AND NATRONA, WYO., DEVELOPMENT ORGANIZATION

Mr. McGEE. Mr. President, I wish to express my appreciation and admiration for a type of grassroots program of community development which is exemplified by an effort in my home State bearing the very appropriate name of CAN DO. It stands for Casper and Natrona Development Organization.

More than 500 citizens of Casper and the county attended the first of the development organization's townhall meetings on April 2, despite the fact that there was a snowstorm that day. They brought with them almost as many concrete ideas for community development, formulated to meet the challenges of the future—challenges projected by an informative publication entitled "Decisions, 1968, a Guide to Tomorrow," which presented solid statistical information on the area's future growth.

The public's suggestions even now are being evaluated, Mr. President, and will be set up in an order of priorities to be considered at a second townhall meeting in the fall.

THE U.S. TRADE BALANCE

Mr. HARTKE. Mr. President, faced as we are with a worsening international balance-of-payments position, confronted with a gold crisis and its threat to the continued stability of the dollar, the United States has always been able to point to one bright spot in the gathering clouds of international monetary disaster—our traditional trade surplus.

And now, with figures in for March, America's surplus of exports over imports has disappeared. This is the first deficit in world trade we have suffered in 5 years, although the signs have been there for all to read. Our trade balance has been on a downward curve since mid-1967.

Certainly, the 11-day New York dock strike was a factor in inhibiting our exports although to a negligible degree of causation in the total picture, because the strike at this major port also curtailed those imports not diverted to non-struck ports.

U.S. importation of foreign goods exceeded our shipments abroad during March by $157.7 million. This is the first month in which our exports have been exceeded by incoming goods since early in 1963.

Our Department of Commerce, following the administration policy line in seeking a tax increase, also blames the trade downturn on inflation.

The Wall Street Journal of April 26 provided this analysis, in part, as follows:

With exports plunging 11.5% from February while imports rose 0.4% the traditional trade surplus disappeared abruptly and a seasonally adjusted deficit of $157.7 million was reported by the Commerce Department.

The deficit was the first since the $101 million deficit of January 1963, when a widespread U.S. dock strike disrupted international trade. An 11-day strike of New York port workers was a factor in the latest deficit, too, but analysts estimate that it probably didn't account for more than about $60 million of the March deficit.

So most of the adverse "swing" of some $330 million from the surplus of $171.2 million in February was due to other factors, officials said. To attribute the setback primarily to the dock strike would be "whistling in the dark," one well-placed seer said, blaming it instead chiefly on failure so far of Congress to enact charge. The deficit "wasn't surprising," he said, "given our inability to provide a proper fiscal framework."

Broadly, Administration men say, the trade position is being impaired by inflation which makes foreign goods more in demand in the U.S. and which makes U.S. products relatively less competitive abroad. "If we had had the tax increase last fall," one said, "we wouldn't have had prices rising at a 4% annual rate" in the first quarter.

IMPORTS ROSE SHARPLY

At $2,454,700,000, U.S. exports in March were down from $2,773,100,000 in February and also below the $2,551,400,000 of a year before. But imports, at $2,612,400,000, were up from $2,601,900,000 in February and were substantially greater than the $2,202,900,000 of the like 1967 month; they were second only to the record $2,615,400,000 set in January, the department said.

The dock strike dealt a bigger blow to exports than to imports, analysts said, because some goods destined for export piled up in the New York port area. Often, though, ships bound for the U.S. with imports could be diverted to ports that weren't struck.

Other adverse factors, authorities said, doubtless included continuing delivery of imported copper that had been ordered before the long U.S. mine strike was settled in mid-March and substantial hedge-buying of foreign steel against a possible U.S. mill strike next summer. Imports of foreign cars have been especially heavy, some added, partly because of inventory-building that they expect will ease later.

The tariff cuts negotiated in last year's "Kennedy Round" may have played some part, too, others suggested. The U.S. put one-fifth of its agreed duty reduction into effect Jan. 1, providing some extra incentive for importing, while the European Common Market countries aren't slated until next June 30 to put their first cut into effect, amounting to two-fifths of the total due. So it's considered possible that some Europeans are postponing purchases of U.S. goods until after midyear when the duties won't add as much to their costs.

Note that this explanation quotes the Department of Commerce, "administration men," and "authorities." All of these sources, obviously, are committed to the principle that a tax increase is the only solution possible—even if additional taxes damage an already faltering economy by adding to, rather than subtracting from, the costs of producing U.S. goods.

I particularly take issue with the quotation attributed to an unnamed administration spokesman that if we had had the tax increase last fall we would not now have rising prices, which is the cost-push inflation Commerce is talking about. On the contrary, the additional cost factor would drive prices up.

While "administration men" seek to place the blame for our balance-of-payments difficulties on a welter of reasons, they are strangely silent on the trade-deficit position of our No. 1 industry, steel and steel mill products.

Steel is a leading example of how our country is losing its traditionally favorable balance of trade and how the administration is failing to take corrective action. As I have noted in the Senate on many occasions, there has been in the last decade a dramatic increase in steel imports concurrent with a significant drop in exports. During 1967 alone, the value of imports rose to $1.3 billion from the $1.2 billion level of 1966. The value of 1967 imports exceeded the value of exports by $877 million. When this figure is adjusted to exclude Government-financed exports and to include freight and insurance charges—normally included in the value of imports of most other nations—our steel trade deficit in 1967 amounted to $1.1 billion.

During the first quarter of 1968 steel imports continued to climb, reaching a record 3.4 million tons valued at $386 million. This was an increase of more than $100 million, compared with last year's first-quarter figures.

The continuing growth of steel imports has contributed significantly to the deficit we suddenly face in our balance of trade and has, of course, contributed concommitantly to our continuing and growing balance-of-payments deficit.

The steel trade balance did not suddenly get out of hand. The trend has

been there for all to see. It has been there for at least 7 years. What are administration officials saying about this now? A Commerce Department representative on April 25 said that the increased purchases of foreign steel, which began last September as a strike hedge, may add as much as $500 million to the U.S. balance-of-payments deficit, and the figure could be exceeded if imported steel buying fosters permanent switches in buying patterns from domestic to foreign steel production. Of course, this is exactly what happened following previous steel labor disputes. On March 8, in Chicago, I said the 1968 steel mill products trade deficit would be almost $400 million higher than in 1967. As it is turning out, I was conservative in my estimate.

Given the major problem the United States has today in maintaining its international monetary position, the steel trade deficit can properly be termed a national disaster.

We must take action in this most serious of all the import impacted industry sectors.

Among the actions we should take is the adoption of the moderate steel quota bill, S. 2537, which would help to shake up foreign industries and foreign governments, encouraging them to dismantle their special protection and incentive programs or to work out with the American Government and steel industry an equitable solution to the excess world capacity in steel, which lies at the heart of the problem.

LEGAL SCHOLARS CONDEMN TITLE II OF PROPOSED CRIME BILL, S. 917

Mr. TYDINGS. Mr. President, on April 19, I wrote to law schools across the country calling attention to the provisions of title II of the proposed omnibus crime control bill, S. 917, which will be pending before the Senate this week. Briefly stated, title II purports to overrule the Supreme Court's constitutional grounded decisions in the Miranda and Wade cases, overrules its decisions in the Mallory case, removes Supreme Court appellate jurisdiction over any State criminal conviction based on confession or eyewitness testimony, and abolishes Federal habeas corpus jurisdiction over all State criminal convictions.

In my letter to the law schools, I asked for their views regarding the wisdom and the constitutionality of the provisions of title II. To date, I have received response from 26 law schools, in all parts of the country. Those letters were signed by 108 legal scholars, including 11 law school deans. All of these letters express a unanimous opinion that title II should not be enacted into law.

The law schools from which I have heard are the following:

Boston College Law School, Brighton, Mass.

University of California School of Law at Davis, Calif.

University of California School of Law at Los Angeles, Calif.

California Western University School of Law, San Diego, Calif.

Chase College School of Law, Cincinnati, Ohio.

University of Chicago School of Law, Chicago, Ill.

University of Cincinnati College of Law, Cincinnati, Ohio.

Duke University School of Law, Durham, N.C.

Emory University School of Law, Atlanta, Ga.

Loyola University School of Law, Los Angeles, Calif.

University of Maine School of Law, Portland, Maine.

University of Maryland School of Law, Baltimore, Md.

University of Michigan School of Law, Ann Arbor, Mich.

University of Missouri School of Law, Columbia, Mo.

University of North Dakota School of Law, Grand Forks, N. Dak.

University of North Carolina, Chapel Hill, N.C.

Northeastern University School of Law, Boston, Mass.

University of Pennsylvania School of Law, Philadelphia, Pa.

University of South Dakota School of Law, Vermillion, S. Dak.

Southern University Law School, Baton Rouge, La.

Stanford University School of Law, Stanford, Calif.

University of Tennessee, Knoxville, Tenn.

University of Tulsa College of Law, Tulsa, Okla.

University of Virginia School of Law, Charlottesville, Va.

West Virginia University College of Law, Morgantown, W. Va.

Yale University School of Law, New Haven, Conn.

I strongly hope that the Senate will heed the views of these legal scholars and will strike title II from S. 917. So that these views can be brought to the attention of Senators, I ask unanimous consent that the complete text of the letters I have received be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

BOSTON COLLEGE LAW SCHOOL,
Brighton, Mass., April 25, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Dean Drinan has referred to me your letter of April 19 concerning the Judiciary Committee's amended Title II of S. 917.

I suggest that a balanced appraisal of the Supreme Court's decision in *Mallory* v. *United States*, 354 U.S. 449, must take into account the factual background of that case. The record shows that shortly after the crime was committed the police set out a dragnet and indiscriminately arrested a great many citizens on nothing more than suspicion or speculation. All these people were held in custody far beyond the time at which the legal mandate required that any accused be presented before a U.S. Commissioner. It was only after Mallory gave the confession the police wanted, that Mallory himself was brought before a magistrate and the others released. To me, these circumstances constitute the strongest sort of justification of the Court's action in adhering to the doctrine that it had announced fifteen years earlier in *McNabb* v. *U.S.*, 318 U.S. 332. A generation or two ago, there was a legal philosophy accepted by some eminent jurists with reference to the somewhat similar matter of the use of evidence obtained by unreasonable search and seizure. This philosophy was summed up in the well known phrase which objected to the proposition that "the criminal is to go free because the constable has blundered." Experience over the years has shown that all too frequently constables have done much more than simply "blunder." In the light of such experience there is now a pretty general consensus, first among State Courts, then capped into constitutional dimension by the Supreme Court (*Mapp* v. *Ohio*, 367 U.S. 643) that the only effective way of enforcing the rights of the people under the Fourth Amendment is to exclude from evidence at a trial material seized in violation of that Amendment. I suggest that similar considerations logically lead to the conclusion that the only effective method of enforcing existing legal limitations upon police rights of arrest and detention is to adopt a similar evidentiary rule of exclusion.

With reference to the provisions of the Committee amendment, which look to evasion of *Miranda* v. *Arizona*, 384 U.S. 436, and *U.S.* v. *Wade*, 388 U.S. 218, I would suggest that enactment of such provisions would be a gross abuse of the powers of Congress under Article III of the Constitution. I refuse to believe for one minute that when the Founding Fathers authorized the Congress to regulate and establish exceptions to the appellate jurisdiction of the Supreme Court it was ever conceived that this power would be used to prevent judicial action striking down violations of the Constitution itself. In my opinion, one of the most shameful episodes in United States history was the one, some one-hundred years ago, when the Congress rushed through a law snatching away from the Supreme Court its appellate jurisdiction in a case which seemed certain to bring about invalidation of the manifestly unconstitutional Reconstruction legislation. I would fervently hope that American history will never witness a repetition of this incident. I do recall, however, that at the height of a wave of hostility some ten years ago attempts were made to use the Congressional power to regulate the appellant jurisdiction of the court in order to make a dead letter of various constitutional doctrines announced by the Court which one senator or another found unacceptable. You may recall that it was probably only through the brilliant parliamentary leadership of the then Majority Leader of the Senate in combining all of the bills into a single package that the incipient revolt against the Supreme Court was defeated by a single vote.

With reference to the proposed abolition of Federal habeas corpus to review State convictions, I feel that this too would have a dangerous tendency to undermine the securities of individuals guaranteed by the Constitution. Our experience for many years in the administration of Federal habeas corpus in these cases has revealed abundantly that all too often State criminal procedures contain "springes" (*Davis* v. *Wechsler*, 263 U.S. 22, 24–25) which the Constitution forbids the States to bar enforcement of Federal rights. As you know, however, the pressure of business upon the Supreme Court is so great that it would be impossible to set aright denials of Federal rights from such sources by direct review through the writ certiorari. The only alternative remedy which the ingenuity of diligent and talented men has been able to devise is the present practice of collateral review in the Federal Courts. I strongly feel that until a better procedure, which would furnish protection of basic individual rights, can be devised we should retain what we have.

I earnestly hope that your efforts in opposition to this unfortunate Committee amendment will meet the success that it deserves.

Sincerely yours,

JOHN D. O'REILLY, Jr.,
Professor of Law.

UNIVERSITY OF CALIFORNIA, DAVIS,
Davis, Calif., April 25, 1968.

Hon. JOSEPH D. TYDINGS,
Senators' Building,
Washington, D.C.

DEAR SENATOR TYDINGS: I agree with you that it would be a great mistake for Congress to pass title II of the Omnibus Crime Control and Safe Streets bill.

The proposed § 3501 would propose to legalize some procedures which the Supreme Court has found to be in violation of the Constitution. Such a head-on collision between legislative and judicial authority is not a satisfactory way to solve this problem. In these days when we are all so concerned with maintenance of law and order in our cities, it is hardly an appropriate precedent for the Congress itself to act in defiance of the law laid down by the courts. I am inclined to think that there are things Congress might do in relationship to this problem which would not involve what is in effect, defiance of court rulings.

§ 3502 would also be a most unfortunate precedent. Whatever the basic constitutional limitations are, they should have reasonable uniformity of application within the United States. To allow each state to develop its jurisprudence regarding confessions without any form of unifying review would run counter to the traditional constitutional scheme. Whatever one's views on the Supreme Court cases dealing with confessions, I should think that one would regard it as a mistake to open this way of dealing with the problem. I hope we are not ready to start tearing down the Union by permitting the creation of local legal empires sheltered from the uniform application of Federal law. Similar comments to the above apply to § 3503. I cannot believe that Congress does not want any constitutional control upon the testimony of alleged eye witnesses, notoriously a most unreliable form of evidence in criminal proceedings. Here again, there is room for creative legislation setting legislative standards for the admission of such testimony. The Court itself has indicated that with such adequate standards, it would not feel the need to apply its requirement of having a lawyer at a line-up.

§ 2256 deals with a very difficult problem which has been struggled with by the Judicial Conference and Congress over the years. Again, it would seem that the meat-axe approach of cutting out all collateral review in the Federal courts is much too arbitrary a solution to the problem.

Sincerely yours,

EDWARD L. BARRETT, Jr.,
Dean, School of Law.

UNIVERSITY OF CALIFORNIA,
LOS ANGELES,
SCHOOL OF LAW,
Los Angeles, Calif., April 26, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: We are writing to you regarding Title II of the Safe Streets bill, S. 917, as recently reported out by the Senate Judiciary Committee. As we understand it, Title II would overrule the decisions in *Miranda* v. *Arizona* and *Westover* v. *United States* and make voluntariness the sole test of admissibility of a confession in the Federal courts. It would withdraw the jurisdiction of any Federal court to review state court determinations on the voluntariness issue. It would make eyewitness testimony always admissible in the Federal district courts, thus overruling the decision in *United States* v. *Wade*, and withdraw the jurisdiction of Federal appellate courts to review state or Federal trial court determinations admitting such testimony. It also would overrule the decision in *Mallory* v. *United States* holding that unnecessary delay in bringing an arrested person before a magistrate is a ground for excluding a confession obtained during the period of delay. Finally, it would effect a withdrawal of the power of the Federal courts to review state court convictions through *habeas corpus*.

As teachers of constitutional and criminal law, we are dismayed by this attempt to overturn, in wholesale fashion, recent decisions of the Supreme Court in the field of criminal procedure. In our judgment, Title II is bad as a matter of policy. It is worse as a matter of constitutional law.

In overruling *Miranda* and *Wade*, it represents an attempt to withdraw constitutional protections by statutes—a power that Congress clearly does not have under the Constitution.

In attempting to withdraw the jurisdiction of the Supreme Court to review state court decisions as to confessions and eyewitness testimony, it raises serious constitutional questions involving the limits of Congressional power under the Constitution. Although Congress has the power under Article III to determine the appellate jurisdiction of the Supreme Court, there is grave doubt that that Article empowers it selectively to withdraw the jurisdiction of the Court to review *particular* issues that arise in the context of a criminal case. If Congress could so use its power over the appellate jurisdiction of the Supreme Court there would be nothing to prevent the Congress from promulgating similar legislation every time the Supreme Court reached a decision with which it disagreed.

In abolishing Federal habeas corpus jurisdiction in state criminal cases, Title II also raises serious constitutional questions since Article I of the Constitution bars suspension of the "privilege of the Writ of Habeas Corpus" except in cases of rebellion or invasion.

Viewed as a whole, Title II makes substantial inroads on the traditional power of the Federal courts to determine constitutional issues in state criminal cases. As a matter of policy, we consider this undesirable. Historically the Federal courts have performed an important and useful function in reviewing state criminal convictions for constitutional error. Over the years, it has been amply demonstrated that state courts have not always effectively protected the constitutional rights of accused persons. Abolishing Federal court review would relegate important issues of constitutional dimension to the authority of 50 state court systems. It would thus make for inconsistency and undercut the basic protection of individual rights that our system of judicial review has traditionally provided.

In summary, we conclude that Title II of S. 917 represents bad law and poor policy. We vigorously oppose it and call upon you and your colleagues in the Senate to reject it.

Sincerely yours,

Norman Abrams, William Cohen, Kenneth Graham, Harold W. Horowitz, Kenneth Karst, Herbert Morris, Melville B. Nimmer, Monroe Price, Arthur Rosett, Lawrence Sager, Murray L. Schwartz,

Professors of Law.

UNIVERSITY OF CALIFORNIA,
LOS ANGELES,
SCHOOL OF LAW,
Los Angeles, Calif., April 26, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I have joined a letter to you, dated today, signed by some of my colleagues, concerning Title II of the Safe Streets bill, S. 917. The purpose of this letter is to elaborate on some of the points made in that letter, concerning the unconstitutionality and undesirability of Title II.

As a teacher of federal jurisdiction, as well as constitutional law, I am particularly concerned with the restriction of Supreme Court Jurisdiction, contained in proposed 18 U.S.C. § 3502, and the severe curtailment of habeas corpus jurisdiction in the proposed amendment to 28 U.S.C. § 2256.

The proposed reduction of Supreme Court and lower federal court jurisdiction in 18 U.S.C. § 3502 would, since the days immediately following the Civil War, be the first time that the jurisdiction of the Supreme Court has been curtailed because of disagreement with the merits of the Court's decisions. More important, it would mark the first time in our history that a jurisdictional statute has been used to control the merits of the future decisions of all federal courts. Because the serious policy implications of the use of Congress' control over the Court's jurisdiction to control the Court's decision of constitutional issues are so obvious, I will confine my discussion to the constitutional issues. *Ex Parte McCardle*, 74 U.S. 506 (1869), sustained the power of Congress to repeal the Court's recently granted power to review decisions of the circuit courts on habeas corpus. While the repeal frustrated the Court's review in the *McCardle* case itself, the *McCardle* case does not establish Congress' power to remove entirely narrow classes of cases arising under the Constitution from the Court's reviewing power. After *McCardle*, the Court continued to have jurisdiction to review denial of the writ of habeas corpus by petition for original writs of habeas corpus and certiorari. *Ex parte Yerger*, 75 U.S. 85 (1869). Moreover, nothing in the *McCardle* case justifies the power of Congress to deny jurisdiction to federal courts to determine discrete issues in cases where the courts continue to have jurisdiction over other federal issues in the case. Finally, and most significant, federal courts would continue to have jurisdiction to review and reverse state court decisions which hold that a confession should be *excluded* on federal grounds. The determination whether the federal court can review federal law issues concerning confessions in state cases depends entirely upon the decision on the merits in the state courts, and not upon the nature of the case or the issues involved. Even conceding the power of Congress to deny federal jurisdiction entirely over certain kinds of constitutional issues (a concession I have refuted above), it is settled that Congress can not use its power over jurisdiction to control the *outcome* of judicial decisions in cases where the courts are given jurisdiction. *United States* v. *Klein*, 80 U.S. 128 (1872). In short, 18 U.S.C. § 3502 would not be a constitutional exercise of Congress' power to control the jurisdiction of federal courts, but an unconstitutional attempt to control the merits of constitutional adjudication.

The proposed amendment to 28 U.S.C. § 2256 would be an unconstitutional suspension of the writ of habeas corpus. Moreover, its impact upon the process of federal review of state court conviction will be more serious than that of any other provision of Title II. Its effects would go far beyond cases of exclusion of confessions and the products of illegal search and seizures. The Supreme Court is not physically able to review on certiorari the merits of federal constitutional issues in the decisions in criminal cases in the fifty states. If denial of certiorari is equivalent to the denial of all federal court review, either the Supreme Court must undertake such review to the point that it will be unable to function in other classes of cases, or denial of the most basic federal constitutional rights of fair procedure will be without remedy in the federal courts. In the case of indigent prisoners, more and more

the extent of their right to fair procedure will depend on the adequacy of representation by court-appointed counsel if all further review is denied simply because counsel failed to raise issues which "could have been determined" at the trial. With the amended habeas corpus bill, those states which provide the lowest level of representation at the criminal trial will gain the largest immunity from further federal court review of the constitutionality of their procedures. It would be tragic if the amended habeas corpus bill should cripple the orderly development of minimum constitutional standards of fair procedure in criminal cases. That national tragedy might be dwarfed by the increased numbers of indigents imprisoned after trials which fail to meet the basic minimum of due process.

Sincerely,

WILLIAM COHEN,
Professor of Law.

UNIVERSITY OF CALIFORNIA,
LOS ANGELES SCHOOL OF LAW,
Los Angeles, Calif., April 26, 1968.

Senator JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I recently joined with some of my colleagues in a letter dated April 26, 1968 addressed to you commenting on Title II of S. 917 as reported out by the Senate Judiciary Committee. I would like to take the opportunity to add some more particularized thoughts to the comments expressed in that letter.

The attempt to overrule the decision in *Miranda* v. *Arizona*, in addition to being of very dubious constitutionality, is unfortunate. It is probably based upon the misconception that *Miranda* somehow has hamstrung law enforcement efforts. Although there were outcries to this effect at the time of the decision, experience since has produced no substantial evidence that the *Miranda* doctrine has interferred significantly with effective law enforcement.

The warning and waiver rules formulated in *Miranda* are designed simply to protect against the potentiality for compulsion involved where a suspect is "thrust into an unfamiliar atmosphere and run through menacing police procedures," and to insure that statements obtained are "truly the product of free choice." If we have not abandoned our traditional concern about compelled or involuntary statements there can be no objection to taking reasonable steps to protect against the risk of such compulsion.

Similar grounds exist for rejecting the attempt to overrule the recent decision in *United States* v. *Wade*. There is no evidence that *Wade* has hampered law enforcement. Consistently with that decision, eyewitness testimony can still be used simply by providing an opportunity for counsel to be present at any lineups. Surely the potential for "improper suggestion" inherent in pretrial lineups justifies providing this minimal degree of protection to a suspect in a criminal case.

The attempt to overrule *Mallory* v. *United States* is also of doubtful merit. That case implemented Rule 5(a) of the Federal Rules of Criminal Procedure which prohibits unnecessary delay in bringing an arrested person before a magistrate. This bill would eliminate the one available sanction—the exclusion of statements made during the period of unnecessary delay—to encourage prompt presentation of the arrestee before a judicial officer. Unless we are prepared to abandon such promptness as a value in our criminal justice system, it behooves us to provide an effective sanction to insure that such delay does not occur.

In this connection, it is worth noting that state courts have also begun to express serious concern about such delay. In a recent case, *People* v. *Powell*, 59 Cal. Rptr. 817 (1967), the Supreme Court of California said:

"The principal purposes of the requirement of prompt arraignment are to prevent secret police interrogation, to place the issue of probable cause for the arrest before a judicial officer, to provide the defendant with full advice as to his rights and an opportunity to have counsel appointed, and to enable him to apply for bail or for habeas corpus when necessary . . . .

"In the case at bar the delay was used to 'extract' from these defendants not one but fourteen self-incriminating statements . . . .

". . . [W]e need not decide at this time whether the circumstances just described amounted to such prejudice as to render reversible the denial of defendants' constitutional and statutory rights to prompt arraignment. But we cannot condone such conduct by the police, and any repetition thereof will be closely scrutinized."

In conclusion, let me also add another word about the several attempts in this bill to withdraw the jurisdiction of the Supreme Court to review claims of error of constitutional dimension in the criminal process. Such attempts, if effective, would upset the existing delicate balance between our three coordinate branches of government. Historically, the Supreme Court has functioned both symbolically and in fact to protect individual liberty in our society. Legislation such as this would go far to undermine that role of the Court and, in my judgment, be a substantial step toward a type of society we abhor.

Sincerely,

NORMAN ABRAMS,
Professor of Law.

UNIVERSITY OF CALIFORNIA, LOS ANGELES, SCHOOL OF LAW,
Los Angeles, Calif., April 25, 1968.

Senator JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I have already joined with a number of my colleagues in a letter to you, commenting on Title II of S. 917. I want to add some personal reflections.

I believe that the legislation is unconstitutional and that, apart from this, bad policy. It seems to me that legislators legitimately concerned with respect for law must exercise extraordinary care in avoiding the enactment of unconstitutional laws. It erodes the value of law for all when those specially responsible for its enactment are themselves prepared to go beyond the limits of law. This ties in with the *Miranda* decision. There is no evidence that law enforcement has been hampered by that decision but there is good reason to believe that the risk of police violation of constitutional rights has been diminished.

There is much talk these days of an increase in crime, of indifference to and disrespect for law. The decisions of the Supreme Court in the area of protecting the rights of individuals are, for me, among the most persuasive reasons for believing that our laws deserve respect. Nothing, at this time particularly, should be done to attack that institution in our society which is most closely linked in the minds of many with preservation of individual rights.

Yours sincerely,

HERBERT MORRIS,
Professor of Law and
Professor of Philosophy.

CALIFORNIA WESTERN UNIVERSITY,
San Diego, Calif., April 24, 1968.

Re. S. 917, omnibus crime control and safe streets bill.

Hon. JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: Your letter of April 19 addressed to the Dean of this Law School has been referred to me for reply.

Time does not permit a detailed analysis of the constitutionality of Title II of the Crime Control bill. Nevertheless, it is apparent that the provisions thereof do raise serious constitutional questions.

Section 3501(b) sets forth certain factors to be considered by the trial judge in determining voluntariness of a confession. Even though the judge finds that one or more of these factors are missing he may nevertheless find the confession voluntary, and thus admissible. However, *Miranda* establishes that the Fifth Amendment privilege against self-incrimination requires that certain warnings be given the accused before his confession can be admitted against him.

If Congress can give a trial judge the power to admit a confession obtained in violation of the Fifth Amendment, then it is Congress, not the Supreme Court that is defining the Fifth Amendment. If Congress has the power to set the limits for the exercise of the Fifth Amendment, it would appear that it would also have the power to set the limits for the exercise of all other constitutional rights, restricting or enlarging them at will.

Since the decision in Marbury v. Madison, this power has resided with the Supreme Court, and it is inconceivable that the Supreme Court will (or should) change that at this late date in our history.

Insofar as Section 3502 is concerned, the extent to which the Congress can enlarge or restrict the exercise of appellate power of the Supreme Court has not been definitely determined. Nevertheless here again, history tells us that the Supreme Court is the final arbiter of constitutional questions, not Congress. If Congress can prevent the Court from reviewing the constitutionality of the admissibility of a confession, why can't Congress then restrict the review of other constitutional issues? For example, why could not Congress also then enact legislation preventing the Supreme Court from reviewing a State Supreme Court decision that the First Amendment had not been violated? Or any other Amendment?

When one asks the question that way, it is apparent that while the exact limits of the appellate jurisdiction of the Supreme Court have not been defined, our constitutional system requires that the Supreme Court be the final arbiter of constitutional issues, and that Congress not have the power to restrict the appellate review of constitutional adjudications made by State Supreme Courts.

From a purely public policy point of view, I think that just proposing this kind of legislation is very unwise. Because of the challenging times we live in today, we have great need to preserve our constitutional system, and for our people to understand and have confidence in it. This kind of legislation is designed to destroy the system, and destroy public confidence in it.

This does not mean that the Court is above criticism, but criticism ought to be constructive and intelligent and not destructive and emotional.

If ever there was a need for greater knowledge of the merit of our system, that need is here today. What we need is greater education of the people in the tremendous advantages of living under this system rather than an emotional attack upon the Court because we dislike its decisions. It would be far better for members of Congress to undertake to educate their constituents in the value of the system, rather than to tear it down.

Sincerely,

JAMES E. LEAHY,
Associate Professor.

CHASE COLLEGE,
SCHOOL OF LAW,
Cincinnati, Ohio, April 25, 1968.

Hon. JOSEPH D. TYDINGS,
Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I am in receipt of your recent letter of April 19, 1968, and a copy of Title II of S. 917. In reviewing the

proposed Title II, I was aghast at the proposals contained therein. In my opinion, Title II is patently contrary to the United States Constitution. It is an attempt to legislatively remove the safeguards of the Bill of Rights and the Fourteenth Amendment. The reviewability of judicial action is the bulkwark against infringement of individual rights in this great country of ours.

My greatest concern, however, is that these provisions were approved by a Committee of the Senate, containing many of its most distinguished and learned members. The future of this country is indeed dark, when our government leaders spearhead the assault upon the basic fundamental rights of the individual. True safeguards exist only if the worst element of society receives guarantees accorded to others.

I would urge that you, and your colleagues, make every effort to eliminate Title II.

Very truly yours,

C. NICHOLAS REVELOS,
Acting Dean.

THE UNIVERSITY OF CHICAGO CENTER FOR STUDIES IN CRIMINAL JUSTICE, THE LAW SCHOOL,
Chicago, Ill., April 22, 1968.

Hon. JOSEPH TYDINGS,
U.S. Senate, Washington, D.C.

DEAR SENATOR TYDINGS: I write to you about Title II of S. 917 as approved by the Senate Judiciary Committee. I do most earnestly hope that this legislation will not receive Congressional approval.

I am closely concerned with many of the problems of the prevention and treatment of crime in this country; but I am not a specialist in constitutional issues and therefore I shall not comment on the constitutionality of Title II or on the likely judicial consequences of its legislative acceptance. It is clear to me, however, that these provisions would make no contribution whatsoever to reducing crime or the fear of crime in this country. They would not improve our prevention or treatment methods. They would not, I believe, increase police crime clearance rates. They are the product of misplaced frustration, not relevant to the serious problems of crime and its effective control.

No responsible student of criminal law can look at the overcrowded dockets and routine processing of criminal cases in many State jurisdictions in this country without recognizing the need for some extra-State protection both of the rights of the accused and of the integrity of the system which confronts them.

The better police forces and virtually all policemen now face community anxieties about crime in the streets which often sound to them like cries for action—any action—prompt and forceful. They need the protections of clear rules. Title II would deny them this. Its passage at this time would undercut the more thoughtful voices within the police not only for lawful law enforcement but for effective law enforcement. This Act at this time would be seen by many police as a mandate for unlawfulness; there is little the country needs less, and many other policemen realize this.

These views are, of course, my own; I cannot speak for the Center for Studies in Criminal Justice but I know my views are widely shared by my colleagues.

Yours sincerely,

NORVAL MORRIS.

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, Ill., April 22, 1968.

Senator JOSEPH TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I as writing to express my concern over Title II of Senate Bill 917, as recently approved by the Senate Judiciary Committee. This Title takes a substantial step backward in the quest for civilized criminal procedure, and it is in several respects of quite doubtful constitutionality.

1. Section 2256, which would virtually abolish federal habeas corpus for persons convicted in state courts, would shift to the already burdened Supreme Court the entire task of overseeing the constitutionality of state criminal proceedings. Recent decisions demonstrate that the state courts are not always able or willing to protect the constitutional rights of the accused. The availability of habeas corpus in the federal district courts gives some assurance that meritorious claims will not get lost in the enormous volume of petitions to the Supreme Court, and the district courts are in a better position than is the Supreme Court to review the constitutionality of convictions because of their ability to conduct factual hearings. To make the state-court decision conclusive as to matters that were or even could have been determined is to subordinate the constitutional rights of citizens to considerations of procedural expediency. To require a man to serve an unconstitutional sentence because his lawyer bungled is not a choice worthy of a free society.

Moreover, section 2256 runs afoul of the provision in Article I, Section 9 of the Constitution forbidding suspension of habeas corpus. It is no defense that the proposal leaves habeas corpus intact as to persons in custody other than pursuant to a state-court judgment; as held in Eisentrager v. Forrestal, 174 F. 2d 961 (D.C. Cir. 1949), the Constitution forbids suspension of the privilege as to any class of persons. Nor is it material that the proposal purports not to eliminate habeas jurisdiction but only to make the state judgment conclusive; the Supreme Court has made clear that review of issues available in the state courts is necessary to the protection of federal rights on habeas corpus, see Fay v. Noia, 372 U.S. 391 (1963), and to forbid investigation of such issues would effectively suspend the privilege.

2. Section 3502 is an even more drastic proposal designed to eliminate altogether federal review of the validity of confessions utilized in state criminal proceedings. To abandon the long-established principle of Supreme Court review of the denial of federal rights in state courts would be to risk leaving those denials uncorrected and also to invite disuniformity among the States in the interpretation and application of the Constitution. The fact that illegal convictions today continue to reach the Supreme Court before being set aside attests to the present need to preserve the Supreme Court's power.

This section too presents serious constitutional difficulties. Although Congress has power under Article III to make "exceptions" to the Supreme Court's appellate jurisdiction, it has never been held that this power can be used to frustrate substantive constitutional rights. Ex parte McCardle, 7 Wall. 506 (1864), which upheld a limitation of the Supreme Court's jurisdiction by appeal, emphasized that other avenues to the Court remained open. Cf. Battaglia v. General Motors Corp., 169 F.2d 254 (2d Cir. 1948), and Eisentrager v. Forrestal, 174 F.2d 961 (D.C. Cir. 1949), both holding the analogous power of Congress to limit district-court jurisdiction subject to constitutional limitations. Judicial review of the constitutionality of the acts of government, a critical part of our system of checks and balances, would be a delusion if it could be defeated by the simple expedient of phrasing a statute in jurisdictional terms.

Section 3502 is subject to an additional constitutional infirmity, for it attempts to deprive the Supreme Court of power not over whole cases but over a single issue. Even if Congress were free to deprive the Court of jurisdiction altogether, it could scarcely order the Court to decide cases in disregard of the Constitution. Ever since Marbury v. Madison, 1 Cranch 137 (1803), it has been settled that the Supreme Court, when a judgment is properly brought before it, must obey the Constitution. The Court cannot therefore be directed to affirm convictions unconstitutionally obtained.

3. The provisions in proposed sections 3501 and 3502 permitting the admission of eyewitness testimony and of voluntary confessions are designed to overturn recent Supreme Court decisions recognizing the right of a suspect to prompt arraignment, to be informed of his rights, to the effective aid of counsel, and to effective cross-examination and confrontation of witnesses. Insofar as these decisions were based upon interpretation of the Constitution, the proposals are beyond the power of Congress; the federal courts cannot be told to violate the Constitution. The Miranda and Wade decisions explicitly invoked the Constitution; it seems most probable that the McNabb-Mallory rule requiring prompt arraignment, while based in those decisions upon the Court's supervisory power over lower federal courts, would be held to be required by the Constitution if the supervisory power were curtailed. As a matter of policy the Title II proposals are most unfortunate. They encourage delay in arraignment, which is an important safeguard against arbitrary incarceration. They encourage law-enforcement officers to take advantage of the ignorance of suspects. They increase the danger of convicting innocent persons on what Mr. Justice Frankfurter once called the untrustworthy testimony of strangers who caught a fleeting glimpse of the criminal. They suggest that the United States is not prepared to treat those accused of crime in a fair and civilized manner.

I urge that Title II be omitted from Senate Bill 917.

Yours very sincerely,

DAVID P. CURRIE,
Professor of Law.

COLLEGE OF LAW,
UNIVERSITY OF CINCINNATI,
Cincinnati, Ohio, April 23, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR TYDINGS: Yesterday I received a copy of your letter addressed to the Dean of our law school respecting Title II of S. 917. Before April 29th, I shall not have time to write a brief or to comment at any length. Under the circumstances, I shall simply state my conclusion. The enactment of Title II of S. 917 would be a giant step backward in a civilized society.

Sincerely yours,

WILBUR R. LESTER,
Rufus King Professor of Constitutional Law.

DUKE UNIVERSITY,
Durham, N.C., April 26, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR TYDINGS: We write for the purpose of urging the defeat of Title II of the so-called Omnibus Crime Control and Safe Streets bill. Title II contains a number of unfortunate amendments. One would deny lower federal courts jurisdiction to entertain collateral attacks on state court criminal judgments even where the constitutional rights of state defendants have been abridged thereby overruling *Townsend* v. *Sain* and *Fay* v. *Noia*. Another would deprive both the lower federal courts and the Supreme Court of the power to review the voluntariness of a confession admitted in a state criminal trial where the highest courts of a State has found the confession voluntary, regardless of

whether the State court flagrantly defied the Supreme Court's prior determinations of the appropriate standards required to be applied by the Fourteenth, Sixth and Fifth Amendments. Another provision would permit the introduction of a confession into evidence in a federal trial if the court determined that the confession was voluntary, even if the confession resulted from a custodial interrogation in which the defendant had not been informed of his privilege against self-incrimination and his right to assistance of counsel as required by the Fifth Amendment as interpreted by the Supreme Court in *Miranda* v. *Arizona*. The bill would also overturn the *McNabb-Mallory* doctrine which for twenty years has excluded the admission of confessions obtained during a period of unnecessary delay between arrest and presentment before a magistrate in federal trials. Another amendment apparently designed to overrule the Supreme Court's decision in the *Wade* and *Gilbert* cases, would not only permit the introduction of "eye witness" testimony under circumstances where a defendant has been denied the assistance of counsel at a lineup, in violation of the Sixth Amendment, but would go so far as to permit its admission in circumstances where the admission of such testimony would constitute a denial of due process of law, as in the case of testimony resulting from an unfairly staged lineup.

At this late date in our constitutional history it seems clear that the Supreme Court is the final arbiter of the meaning of the Constitution. This is the meaning of *Marbury* v. *Madison*. The Court has interpreted the Fifth Amendment in *Miranda* and the Sixth Amendment in *Wade*. It is not the function of the Congress, and beyond its power, to overrule these decisions. It is equally clear that it has no right to require a federal court to permit a conviction to rest on evidence obtained in violation of the Constitution. Furthermore the impartial studies now available (Yale, Georgetown, Pittsburgh) provide no basis for a belief that these decisions have had any substantial effect upon police effectiveness.

It is doubtful if the Congress has the authority to deny the Supreme Court the right to review a state court ruling admitting a confession obtained in violation of the Fifth or Fourteenth Amendments, after a state Supreme Court has opined that the confession is voluntary. The power to limit the appellate jurisdiction of the Supreme Court is asserted to find support in *Ex parte McCardle*, decided a century ago. It is doubtful if *McCardle* would be decided the same way today. Indeed its holding was limited two years later in *United States* v. *Klein*. In any case, even if it continues to have vitality, it may be distinguished. The bill in question poses grave problems of the equal protection of the laws which did not face the Court in *McCardle*. A single class of defendants in state prosecutions, those whose confessions have been found voluntary by the highest state courts, are alone deprived of the right to review by the Supreme Court of lower court rulings affecting their rights under the Constitution. It is extremely questionable if there is anything about this class of defendants which is sufficiently distinctive to merit subjecting its members to this type of overt discrimination.

In any case, the attempt to divest the Court of appellate jurisdiction in an area where Congress disagrees with its decisions poses a great threat to the balance of powers. The attempted exercise of such power by the Congress would set an unfortunate precedent which might ultimately imperil the judicial independence which has been the bulwark of freedom since the inception of the Republic.

The immediate result of divesting the court of jurisdiction to review rulings of "voluntariness" is clear. Two cases during the present term provide examples of the level of civilization in criminal procedure which would result from limiting the Supreme Court's jurisdiction as the bill proposes.

In *Beecher* v. *Alabama* a badly wounded negro confessed to the rape and murder of a white woman at gunpoint after Tennessee police had told him that they would kill him if he didn't tell the truth and fired a rifle next to his ear in order to emphasize the point. Five days later in a morphine stupor and intense pain the defendant signed written confessions prepared by Alabama investigators who had engaged in a 90 minute conversation with him after the defendant had been instructed to "cooperate" with them by the medical attendant in charge. The Alabama Supreme Court concluded that the confessions taken from him by the investigators were voluntary.

In *Brooks* v. *Florida* the defendant accused of rioting in a prison was confined with two other prisoners for 14 days in a cell 7 to 13 feet long and 6½ feet wide. The cell had no external window, no bed or other furnishings or facilities except a hole in the floor which served as a commode. Brooks was fed 12 ounces of "peas and carrots in a soup form" and eight ounces of water daily. The defendant's testimony that he was stripped naked before being thrown into the cell was not controverted. During his two weeks his only contact with the outside room was interviews with the prison's investigating office. On the 15th day of confinement under these conditions, the defendant was brought before the investigating officer and confessed. The Florida court upheld this conviction.

It is difficult to believe that the Senate could want state rulings of this kind to be upheld. But this would be the result of the bill reported to the floor of the Senate by the Judiciary Committee.

The denial of jurisdiction to lower federal courts in cases in which state criminal judgments are attacked on constitutional grounds is defended upon the basis of the Congressional power to limit the jurisdiction of the lower federal courts. The practical effect would be to suspend for state prisoners the federal writ of habeas corpus, the "Great Writ" which has protected the liberty of English-speaking persons for almost three hundred years. In addition, substantial problems of equal protection are implicit in a situation where the meaning of the Constitution depends on local option unless Supreme Court review can be obtained. Even if such a drastic step is constitutional, it seems clearly to be unwise. The large number of cases brought to the federal courts by state prisoners has resulted from two factors, the refusal or failure of some state courts to follow Supreme Court decisions, and the failure of most states to enact modern post-conviction remedies. The Supreme Court is not able to review all cases where there are substantial allegations of deprivation of Constitutional rights. To permit the continued confinement of state prisoners, whose convictions rest on evidence obtained in violation of the Constitution, or whose sentences violate Constitutional mandates, would make the Bill of Rights meaningless to substantial numbers of citizens accused of crime, and reduce the Supremacy clause to a meaningless rubric in the field of criminal procedure. It would also remove one of the principal incentives to the reform of state criminal procedure.

Over-turning the *McNabb-Mallory* rule is likewise unwise. During twenty years it has proved to be an effective device for discouraging arrests without probable cause, and implementing the privilege against self-incrimination, the right to counsel, and the right to bail. Furthermore, there is no evidence that it has, in the past or at the present, constituted any impediment to federal law enforcement outside of the District of Columbia.

Last year the Congress passed legislation over-turning the Mallory Rule in the District of Columbia, but requiring the safeguards constitutionally required by the *Miranda* decision which are absent from the present bill. The present effort to overturn *Mallory* can only be described as a symbolic gesture designed to set back the evolution of a criminal procedure which will protect the rights of the citizenry with no attendant benefits to law enforcement. The manner in which the bill seeks to achieve these objects again raises doubts concerning its constitutionality. The bill does not permit delays in order to interrogate. It requires the Court to admit evidence obtained during a period of unlawful delay. It may be doubted whether such an approach is consistent with the imperative of judicial independence and the integrity of the processes of justice which are implicit in Article III of the Constitution.

These comments are not intended to constitute a detailed presentation of all of the legal principles involved. We regret that we were not invited to present our views before the Judiciary Committee under circumstances where a scholarly study could have been prepared. This document has been prepared in the few days available to us after receipt of your letter in an effort to express sincere hope that the Senate will delete Title II from the bill when it reaches the floor.

Yours very truly,

A. KENNETH PYE,
Professor of Law [Criminal Procedure], Duke University.
WILLIAM W. VAN ALSTYNE,
Professor of Law [Constitutional Law] Duke University.
DANIEL H. POLLITT,
Professor of Law [Constitutional Law and Criminal Procedure], University of North Carolina.
FRANK R. STRONG,
Professor of Law [Constitutional Law] University of North Carolina.

EMORY UNIVERSITY,
SCHOOL OF LAW,
Atlanta, Ga., April 24, 1968.

Senator JOSEPH D. TYDINGS,
Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I appreciate very much your sending me a copy of Title II of S. 917 and calling attention to the effect of its provisions on recent decisions of the Supreme Court which have delineated for our society the outlines of "fair treatment" for persons suspected of crime.

It seems to me that once our society is presented, by an authoritative branch of government, with a higher standard of "fair treatment" than what has customarily been followed, another branch of government can hardly settle for less. The point is that new ideas have already come upon the current scene in this area of criminal procedures and Title II, even if passed, cannot obliterate these ideas; such legislation can only mark those who support it as being willing to settle for "unfair treatment"—and this in the face of our time-honored notion that a man is presumed innocent until proved guilty.

It is really strange legislation that deliberately sets our federal trial court judges against our federal appellate judges and our state courts against our federal courts when the situation today cries out for more unity.

Surely there must be a better way.

Sincerely yours,

BEN F. JOHNSON,
Dean.

LOYOLA UNIVERSITY,
SCHOOL OF LAW,
Los Angeles, Calif., April 25, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I have read with interest your letter of April 19, 1968, addressed to the Dean of this faculty.

Upon a reading of the enclosed proposed legislation, it occurred to me that the enactment of any such legislation could be one of the most serious legislative acts in recent history. I can imagine no good which could possibly arise out of any such legislation. I will not use your time unnecessarily by expanding upon the obvious constitutional, ethical, and psychological problems which can be created by such legislation. In my opinion, therefore, you are entitled to the most complete support for the position you have taken, and it is my sincerest hope that this portion of the Crime Bill will be deleted before its final enactment.

If I can be of any further service in this matter, I would be delighted to do anything which you request.

Sincerely yours,

GEORGE C. GARBESI,
Professor of Law.

NEWPORT BEACH, CALIF.,
April 26, 1968.

Hon. JOSEPH D. TYDINGS,
Senate Judiciary Committee,
Washington, D.C.:

Passage of Senate bill 917 would be fatal to judicial system. Please note my strong protest.

J. REX DIBBLE,
Professor of Law and Former Dean,
Loyola Law School.

UNIVERSITY OF MAINE,
SCHOOL OF LAW,
Portland, Maine, April 23, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR TYDINGS: I concur with you that the proposed Title II of the Omnibus Crime Control and Safe Streets bill contains provisions that would be most unwise. I am circulating your letter, with a copy of the bill, among the faculty of this law school with the suggestion that they write to you if they are so inclined.

Thank you for drawing the material to my attention.

Sincerely yours,

EDWARD S. GODFREY,
Dean.

UNIVERSITY OF MARYLAND,
SCHOOL OF LAW,
Baltimore, Md., April 23, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Title II of the proposed Crime Bill (S. 917) now before the United States Senate contains provisions on confessions and eyewitness testimony in criminal cases and on federal habeas corpus which are very unwise and of doubtful constitutionality.

Title II first provides that in a federal criminal prosecution a confession shall be admissible in evidence if it is voluntarily given. The states, on the other hand, are not required to adopt any particular test on the admissibility of confessions in criminal cases. However, Title II does attempt to withdraw from the jurisdiction of the federal courts the review of a ruling by a state court system that a confession is admissible into evidence as voluntarily made. This latter provision is an open invitation to the states to return to the old voluntariness test on the admissibility of confessions and an attempt to shield states which adopt such a course from federal court review of criminal convictions where such confessions are admitted into evidence. All these provisions are in direct conflict with the Supreme Court's landmark decision in *Miranda v. Arizona,* which discarded the old voluntariness test on the admissibility of confessions and held that additional safeguards must be developed to protect, in the setting of custodial interrogation, a suspect's constitutional privilege against self-incrimination. Any confessions obtained by the police in the absence of these safeguards were held inadmissible. The *Miranda* opinion required in the way of safeguards basically that the police warn the suspect that he has a right to remain silent and a right to the presence of an attorney, either retained or appointed. The *Miranda* opinion was nevertheless very clear in stating that federal and state governments were free to supplant these safeguards with other safeguards which they found more appropriate or workable so long as the latter safeguards were fully effective in protecting a suspect's privilege against self-incrimination. Title II does not do this. Rather, its provision on the admissibility of confessions are in direct conflict with the Supreme Court's *Miranda* decision, which found that the voluntariness test did not adequately protect the rights of the suspect. Title II therefore does not deal constructively with the problem of reconciling the suspect's privilege against self-incrimination with effective law enforcement; but rather provokes an unseemly and needless confrontation between Congress and the Supreme Court. In doing this the Title unwisely departs from the *Miranda* opinion's well-founded concern with protecting the dignity and integrity of a person suspected but not yet convicted of the commission of a crime.

The provisions of Title II on eye-witness testimony are open to similar objections. The testimony of an eye-witness to a crime that the defendant was the perpetrator has often proved to be unreliable. One of the chief causes of this unreliability is that the eye-witness often first identifies the defendant as the perpetrator in a line-up or other pre-trial confrontation where various suggestive influences may lead the eye-witness to pick out the defendant. To protect innocent defendants from faulty identification processes, the Supreme Court held in the recent case of *United States* v. *Wade* that the suspect had a constitutional right to counsel during such crucial pre-trial confrontations. A courtroom identification of the defendant is inadmissible if it is the product of a prior identification of the defendant at a pre-trial confrontation where the defendant neither had nor waived counsel. Once again the way remains open for Congress or the states to develop alternative means of protecting an accused from an erroneous identification. Title II does not adopt this constructive approach but enters into direct collision with the Supreme Court's *Wade* decision when it provides, in effect, that eye-witness testimony shall in all instances be admissible in state and federal criminal trials.

Title II also seeks to abolish the rule, established by the Supreme Court in *Mallory* v. *United States,* that any confession obtained by federal officers during an illegal detention is inadmissible in the federal courts. The *Mallory* rule does not derive from the Constitution but from the Supreme Court's exercise of its supervisory power over the administration of federal justice. Nevertheless, few individual rights are more precious than the right to be brought before a judicial officer within a reasonable time after an arrest for purposes of obtaining bail, a preliminary hearing, or information on one's rights. Congress should not encourage federal law enforcement officers to delay bringing an arrested person before a judge by telling the officers that no matter how long they delay the confession may still be admissible. The recently enacted District of Columbia Crime Bill permits the District police to detain a suspect for three hours prior to bringing him before a judge. Three hours should be ample time for the police, and any further delay should be considered in the majority of cases as unreasonable. Federal law enforcement officers should not be able to profit from such an unreasonable delay by obtaining a confession.

Perhaps the most regrettable provision in Title II is the attempt to withdraw from the federal courts the habeas corpus jurisdiction over state prisoners. This withdrawal of jurisdiction may amount to an unconstitutional suspension of the great writ of habeas corpus. In any case, this provision deprives state prisoners of a readily available federal forum in which to raise federal constitutional claims and leaves the determination of a state defendant's federal constitutional rights entirely to the state courts, subject only to discretionary review by the Supreme Court on the defendant's direct appeal from his conviction. Such a withdrawal of federal jurisdiction upsets the delicate balance of federal state relationships. As the Supreme Court indicated in its discussion of the federal habeas corpus jurisdiction in *Henry* v. *Mississippi,* the federal courts grant the state judiciary full opportunity to air and determine initially federal constitutional claims and only intervene on habeas corpus when federal constitutional rights have been denied. It appears most unwise to remove this federal check on the states' administration of criminal justice.

For the above reasons we as individuals urge you to do all in your power to secure the defeat of Title II on the Senate floor.

Very truly yours,

EDWARD A. TOMLINSON,
(Drafter of the letter),
BERNARD AUERBACH,
LEWIS D. ASPER,
EVERETT GOLDBERG,
LAURENCE M. KATZ,
SANFORD JAY ROSEN,
JAMES W. MCELHANEY,
GARRETT POWER,
Members of the Faculty.

UNIVERSITY OF MARYLAND,
SCHOOL OF LAW,
Baltimore, Md., April 23, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for your letter of April 19th alerting us to the dangers lurking in Title II of S. 917. Several members of the faculty are drafting a comprehensive letter dealing in specific terms with the objections that can and should be made to Title II. Their letter will reach you soon.

Meanwhile, let me just make two points:

1. Much of Title II seems to me to be destructive; it creates unnecessary and unseemly tension between the Congress (which may pass it) and the Supreme Court (which will be called upon to pass on its constitutionality).

2. Congress can take constructive action to clarify what law enforcement officials can do within the guidelines of current Supreme Court decisions, without diminishing the important rights that have been granted the accused. Such a legislative approach, I think, would have widespread support in the academic community as well as elsewhere.

Sincerely yours,

WILLIAM P. CUNNINGHAM,
Dean.

BALTIMORE, MD.,
April 24, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for bringing to my attention the crime bill currently before the Senate, Title II of which would amend chapter 223 of title 18 and chapter 153 of title 28 of the United States Code. In my judgment, it is a very bad approach to a difficult problem.

I share the apparent discontent of the bill's proponents with the exclusionary rules developed by the Supreme Court, in an attempt

to insure fairness in criminal proceedings. Such rules sometimes free the guilty to achieve their ends. I would like to see Congress and the States try to work out alternatives which would permit conviction of the guilty, such as, for example, administrative and training procedures within law enforcement agencies which would make police misconduct a rarity. Such approaches to the problem, not open to the courts to initiate, are open to legislative bodies. But I see nothing of such a constructive nature in this bill.

Unless alternatives can be developed, we must stay with the exclusionary rules if we are to seek fairness. The cases before the Supreme Court will continue to be difficult, and its decisions will sometimes seem to be wrong, but the Court must continue to review State practices and supervise federal practices, because history shows that without such action many law enforcement agencies and State courts will not adequately police themselves. The bill may be bad constitutionally as well as bad as a matter of policy; it is doubtful that the constitution permits this kind of limitation of the Supreme Court's jurisdiction in such an important area of civil liberties.

My colleagues, Professor John W. Ester and Assistant Professors Robert G. Fisher and Lawrence L. Kiefer, have authorized me to say that they agree with the views expressed in this letter.

Sincerely yours,

JOHN M. BRUMBAUGH,
Professor of Law, University of Maryland School of Law.

UNIVERSITY OF MARYLAND,
SCHOOL OF LAW,
Baltimore, Md., April 24, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Title II of the proposed Crime Bill presently before the Senate reflects a genuine feeling of concern that the Supreme Court is, in effect, penalizing the public by requiring the release of confessed criminals in its attempt to prevent law enforcement officials from violating the civil rights of indigent defendants in criminal proceedings.

In my opinion, however, the proposed bill bends too far the other way in eliminating Supreme Court review in the area of confessions. While somewhat similar restrictions have been imposed upon the appellate jurisdiction of the Supreme Court and have been held constitutional (*Ex parte* McCardle, 7 Wall. (74 U.S.) 506; see U.S. v. Klein, 13 Wall. (80 U.S.) 128, 1872), experience has shown that without Supreme Court review, state courts and agencies cannot be relied upon to assure fair police and trial practices. The proposed limitations upon the use of the writ of habeas corpus would be a body blow to civil liberties as would be the removal of the unifying force of Supreme Court review upon the disparate constitutional interpretations of the fifty states.

Congress and the states should, however, consider alternative approaches directed to the heart of the problem, namely, the conduct of law enforcement officials. Such officials might be made amenable to civil suits and perhaps governmental sanctions for unacceptable, clearly defined misconduct, such as coercing a defendant to confess or a delay of more than a few hours in bringing him before a magistrate. Radical revision of present training and administrative procedures of law enforcement officials could also accomplish much in this area. Until satisfactory alternatives are developed, it would be most unfortunate to remove the Supreme Court's jurisdiction over an area as vital as civil liberties.

Sincerely yours,

AARON M. SCHREIBER,
Associate Professor of Law.

UNIVERSITY OF MICHIGAN
LAW SCHOOL,
Ann Arbor, Mich., April 25, 1968.

Re the unconstitutionality of title II of S. 917.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: After wrestling for decades with the unruly, unsatisfactory "voluntariness" test for the admissibiilty of confessions—an elusive, measureless standard of psychological coercion developed by accretion on almost an ad hoc, case-by-case basis, a test so uncertain and unpredictable that it guided police conduct very little, if at all—the Supreme Court of the United States finally displaced it with a set of relatively firm, specific guidelines: "Custodial questioning" must be preceded by warning the suspect that "he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed." *Miranda* v. *United States*, 384 U.S. 436, 444 (1966).

We do not claim there is nothing to be said for a *constitutional amendment* modifying the Supreme Court's reading of the Fifth Amendment to prohibit police interrogators from compelling a defendant to be "a witness against himself" and the Court's interpretation of the Sixth Amendment to afford a person in the police station, as well as in the courtroom, "the assistance of counsel for his defence." We maintain only that there is nothing to be said for a bill which *pretends there are no constitutional principles at stake* but simultaneously flies in the face of this nation's constitutional traditions by seeking to insulate the bill from judicial review.

We realize that some members of Congress are unhappy about recent Supreme Court constitutional rulings in the police interrogation-confession area, but we submit this scarcely justifies an expression of unhappiness in the form of a statute which in one breath fails to recognize the existence of authoritative constitutional decisions squarely on point, but in the next breath manifests sufficient awareness of the bill's constitutional infirmity to seek to prevent the federal courts from performing their essential and traditional function of determining a statute's consistency with the federal constitution. To solemnly pass title II into law, in order to register unhappiness or wishful thinking, seems to be nothing less than a perversion of the legislative process.

In the thirty years since *Brown* v. *Mississippi*, 297 U.S. 278 (1936), the first fourteenth amendment due process confession case, the U.S. Supreme Court took an average of only one state confession case per year—and *two-thirds of these* were "death penalty" cases. See Prettyman, Jr., *Death and the Supreme Court* 297–98 (1961). But Section (e) of Title II purports to remove even this modest check on state courts by purporting to take away the U.S. Supreme Court's power to "disturb in any way" a state court's finding that an admission or confession was "voluntarily made".

It is well to remember that but for the intervention of the U.S. Supreme Court, the defendant in *Brown* v. *Mississippi* would have been convicted on the basis of a confession obtained after thirty-six hours of continuous interrogation by police "relays"; the defendant in *Malinski* v. *New York*, 324 U.S. 401 (1945) would have been convicted on the basis of a confession obtained from him only after he had been stripped of all his clothing for three hours; and the defendant in *Davis* v. *North Carolina*, 384 U.S. 737 (1966) would have been convicted on the basis of a confession taken from him only after he had been questioned an hour or two each day *for sixteen days*—during which time no one other than his police captors saw or spoke to him. All of these confessions—*according to the state courts*—were "voluntarily made."

In a few short days we shall celebrate "Law Day." On that day leaders of the Congress and the bench and bar will undoubtedly point with pride to our "accusatorial, adversary system," of which the right to counsel and the privilege against self-incrimination are dominant features. A vote for Title II is a vote to honor our ideals *only* on "Law Day" and other ceremonial occasions, but to forget them the rest of the year.

Sincerely yours,

Layman E. Allen, Olin L. Browder, Paul D. Carrington, Robert A. Choate, Alfred F. Conard, Luke K. Cooperrider, Whitmore Gray, Robert James Harris, Carl S. Hawkins, Jerold H. Israel, John H. Jackson, Michael S. Josephson, Douglas A. Kahn, Yale Kamisar, Paul G. Kauper, Thomas E. Kauper, Arthur R. Miller, William J. Pierce, Terrance Sandalow, Joseph L. Sax, Stanley Siegel, Russell A. Smith, Theodore J. St. Antoine, Richard V. Wellman, L. Hart Wright, Kenneth L. Yourd, Members of the Faculty.

UNIVERSITY OF MICHIGAN LAW SCHOOL,
Ann Arbor, Mich, April 25, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: This letter relates to Title II of the Omnibus Crime Control and Safe Streets bill (S. 917), recently reported by the Senate Judiciary Committee. Because I believe the provisions of Title II are founded on erroneous assumptions and constitute a serious threat to the American tradition of constitutional government, I feel obliged to state the basis for my views.

Having spent the larger part of my professional life in the study of criminal law and the administration of criminal justice in the United States. I am, of course, aware of the agitated concern engendered in some quarters by the decisions of the U.S. Supreme Court in cases like *Miranda* and *Mallory*. I shall not pause to argue the merits of these decisions; nor am I disposed to challenge the sincerity of those who have disagreed with the Court. I am convinced, however, that the Court's critics have unreasonably exaggerated the importance of these decisions in their efforts to explain the problems confronting American law enforcement today. The evidence overwhelmingly supports the view that the crime rate and the comparative ineffectiveness of law enforcement in this country have very little to do with judicially fashioned rules of evidence of the sort announced by the Supreme Court in *Miranda*, *Mallory*, *Wade*, and kindred decisions. In my judgment, the effort to make the Supreme Court the scapegoat for the failure of American law enforcement is wrong for the same reasons that the sale of patent-medicine cures for cancer are wrong: it is based on an erroneous diagnosis of the illness and is dangerous because it diverts attention from the real problems and creates false hopes in an ineffectual remedy.

But even more serious is the method Title II proposes. Stripping the Court of jurisdiction in certain types of cases because members of Congress happen to disagree with the Court's view of the constitutional commands is a step down a road that leads to fundamental alteration in the distribution of powers in the American system. Once a first step is taken along this path, it will be difficult to avoid other steps in the future. I regard Title II as fully as ominous an assault on the Supreme Court as the court-packing proposal of the 1930's. In some respects it may be a more insidious threat, for it is less forthright and candid, and its dangers less apparent to the public at large.

I strongly urge that Title II be deleted from the bill.

Sincerely yours,

FRANCIS A. ALLEN,
Dean.

UNIVERSITY OF MISSOURI,
SCHOOL OF LAW,
Columbia, Mo., April 24, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Your letter to Dean Joe E. Covington dated April 19, 1968, and concerning S. 917 has been referred to me for reply. Your letter requested a reply not later than April 29.

All of the undersigned members of this faculty are specially concerned with either Constitutional Law, Criminal Law or Evidence.

Due to the shortness in time, it is not possible for us to delineate the reasons for our views. It will have to suffice that, for reasons of unconstitutionality or undesirability, we are opposed to all of the provisions included in Title II of S. 917. Please add our names to the list of opponents of this proposed legislation.

Respectively,

WILLIAM P. MURPHY,
Professor of Law.
EDWARD H. HUNVALD, Jr.
Professor of Law.
T. E. LAUER,
Associate Professor of Law.
GRANT S. NELSON,
Assistant Professor of Law.
ELWOOD L. THOMAS,
Assistant Professor of Law.

UNIVERSITY OF NORTH DAKOTA,
SCHOOL OF LAW,
Grand Forks, N. Dak., April 23, 1968.

Senator JOSEPH D. TYDINGS,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for your recent letter with its enclosure of S. 917. Since I teach our criminal procedure course, the Dean has forwarded the materials to me.

Not only do I regard the statute as being itself unlawful, to the extent that it attempts to correct a constitutional decision through ordinary legislation, but I further believe that it would reverse a very wholesome trend in recent Supreme Court decisions: toward removing justice from the list of marketable commodities, and encouraging economic and ethnic minorities to respect the law by demonstrating to them that the law respects them. It is decisions such as Miranda which provide the most effective corrective to "crime in the streets"; not bills such as S. 917, however deceptively labelled.

Thank you for your efforts to defeat this statute.

Very truly yours,

MARTIN B. MARGULIES,
Assistant Professor of Law.

NORTHEASTERN UNIVERSITY SCHOOL OF LAW,
Boston, Mass., April 22, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Enclosed is a statement concerning Title II of S. 917. You are free to use it in whatever way you wish.

I am in complete agreement with your view on this bill, and its progress to date reflects an unrealistic attitude on the part of the members of Congress.

Sincerely,

THOMAS J. O'TOOLE,
Dean.

STATEMENT OF DEAN THOMAS J. O'TOOLE, NORTHEASTERN UNIVERSITY SCHOOL OF LAW, CONCERNING TITLE II OF S. 917 (THE "OMNIBUS CRIME CONTROL BILL")

So far as it applies to state criminal trials, Title II appears to be constitutional in the light of existing precedents.

Its constitutionality depends, however, on a technicality. Under Article III of the United States Constitution, the appellate jurisdiction of all the federal courts and the original jurisdiction of the lower federal courts are subject to Congressional definitions. If Congress were to enact Title II, it would be saying to some persons convicted in state criminal trials: even if you have been unconstitutionally convicted, we are depriving you of any federal opportunity to have your rights vindicated. By withdrawing the rights to writ of habeas corpus, Congress would be sharply narrowing this most ancient and hallowed device by which Americans and their British forbears have protected their personal liberty against arbitrary government action.

Insofar as it applies to criminal trials in the federal courts, the proposed Title II is blatantly unconstitutional. The Mallory rule has never been placed on constitutional grounds, but Miranda and its ramifications are nothing more than an explicit development of the constitutional rights to fair trial and to representation by counsel. In nonlegal terms, these judicial rulings represent not simply a desire to avoid convicting the innocent, but also an attempt to secure recognition of the human dignity of all persons, even those who stand accused.

At this point in national history, when constructive and imaginative approaches to our urban problems are desperately needed, the enactment of Title II would be an angry and vindictive attempt to return criminal justice to a more barbaric stage. Worse than that, it would be a declaration by Congress of disaffection with our Bill of Rights and the independence of our federal judiciary.

UNIVERSITY OF PENNSYLVANIA,
THE LAW SCHOOL,
Philadelphia, Pa., April 24, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: We write to express our strong concern over the provisions of Title II of S. 917 (the "Safe Streets" bill), currently before the Senate.

Every one of the provisions of this Title presents a serious constitutional question. To the extent this means only that they may prove to be ineffective or invalid, that would not necessarily be sufficient reason to oppose passage. The bulk of these provisions, however sweep much too broadly, creating serious additional problems going to the core of our governmental system.

The provisions which would restrict the jurisdiction of the Supreme Court and of the inferior federal courts (especially with regard to habeas corpus) are particularly troublesome. By their terms, these provisions would cut federal jurisdiction back so far as virtually to eliminate federal review in nearly all state criminal cases—regardless of the number or kinds of federal issues which may have been involved. There is substantial question whether these provisions would actually be effective as written or whether they might be partially or entirely unconstitutional. To the extent they might operate, however, they would alter the nature of our system far beyond what is necessary or appropriate in the circumstances.

The provisions seeking to redistribute authority within the federal judicial structure are less troubling only in degree. They also present constitutional questions and also would, if effective, work serious dislocation in the over-all functioning of the system.

Of greatest importance, the provisions of Title II would pose the issues of constitutionality in a manner likely to produce a confrontation between the legislative and judicial branches of our Government from which the Nation can only suffer. No matter how the immediate questions might be resolved in the specific cases, the long-range effects of such a confrontation could be even more serious.

One does not have to agree with the pace or even the content of the decisions of the Supreme Court in the area of criminal procedure to conclude that the corrective measure proposed in Title II is too blunt an instrument which would cause unnecessary damage to our system as a whole.

Sincerely yours,

JEFFERSON B. FORDHAM,
Dean.
ANTHONY G. AMSTERDAM,
Professor of Law.
STEPHEN R. GOLDSTEIN,
Assistant Professor of Law.
A. LEO LEVIN,
PAUL J. MISHKIN,
CURTIS R. REITZ,
LOUIS B. SCHWARTZ,
BERNARD WOLFMAN,
Professors of Law.

SOUTHERN UNIVERSITY,
Baton Rouge, La., April 25, 1968.

Re S. 917 (omnibus crime control and safe street bill).

Hon. JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SIR: In view of the immediacy of your need for a reply to your letter of April 19, 1968, the views expressed herein are not supported by research. There are, however, some fundamental constitutional principles that are involved in the proposed bill above referred to. Specifically, the Fourteenth Amendment protections of a "Due Process" would be seriously eroded should such a bill become law.

Further, to enact such a bill into law would set a dangerous precedent on the constitutionally fixed balance of power between the Executive, Judicial and Legislative branches of government. The historic function of the Supreme Court in maintaining order in meeding out justice under a single constitutional principle would be seriously imperiled and would be to permit as many different applications of law as there are State Supreme Courts. This to me would cause utter chaos in our system of administration of justice.

I trust that my views will aid in this type of bill which seems to be emotionally inspired rather than legally reasoned with justice as its aim.

Respectfully,

A. A. LENOIR.

THE UNIVERSITY OF SOUTH DAKOTA,
Vermillion, S. Dak., April 24, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Your letter of April 19th calling attention to the inclusion of Title II in the Omnibus Crime Control and Safe Streets bill, and to the one-vote approval by the Senate Judiciary Committee of the provisions of Title II, caused a great deal of consternation here in this Law School. I personally am appalled by the action of the Committee. This is true despite the fact that I have a great deal of sympathy for some of the goals which Title II is rather obviously attempting to attain. It is incomprehensible to me that the Judiciary Committee of the United States Senate should lend its support to an attempt to change drastically our system of adjudication of constitutional rights in order to overturn specific products of that system. It is even more incomprehensible that the Committee should attempt to take such action with no publicity and little or no attempt to explain to either the legal community or to the public in general the purposes or the implications of its action.

Since receiving your letter, I have made personal telephone calls to a number of the outstanding legal leaders in the state of

South Dakota. Not a single one of them was aware of the existence of Title II, and although quite a few of them were something less than antagonistic toward its purposes, without exception they were firmly opposed to the methods being used to fulfill those purposes.

The action of the Committee in this instance is completely illogical and ill considered. If the appellate system is under direct attack, the entire system should be studied and revised where necessary in a uniform logical manner. If, on the other hand, the attack is directed toward individual case results of this system rather than toward the system itself, the enactment of Title II, which jeopardizes our existing constitutional protection, borders on representative irresponsibility. Action of this sort should not be taken without full public discussion involving participation by the Bar, legal educators, and the legal community, as well as by all other segments of the interested public.

Please let me know if I can be of further assistance in your attempts to delete Title II from the Omnibus Crime Control and Safe Streets bill. I am forwarding copies of this letter to Senators McGovern and Mundt, and to the President of the South Dakota State Bar, together with my recommendation that they do everything within their power to prevent the enactment of Title II.

Sincerely yours,

JOHN D. SCARLETT, *Dean.*

THE UNIVERSITY OF TULSA,
COLLEGE OF LAW,
April 23, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate, Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for your letter and the copy of S. 917 "Omnibus Crime Control and Safe Streets Bill." Of course the Senate and House have the power to withdraw federal habeas corpus jurisdiction over all state criminal convictions, although I feel that this would be a most disastrous exercise of that power.

Miranda and *Wade* simply cannot constitutionally be overruled by legislative fiat. I sincerely hope that you are successful in having these provisions stricken from the bill.

Thank you again for furnishing me with these materials. If I can be of further assistance, please do not hesitate to contact me.

Sincerely yours,

BRUCE PETERSON, *Dean.*

STANFORD SCHOOL OF LAW,
Stanford, Calif., April 23, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I have just seen a copy of Title 2 of Senate 917 as approved by the Senate Judiciary Committee and wish to write you to protest against its possible enactment. First, though not most important, the constitutionality of at least two of its provisions is most dubious. I think that a reading of the Supreme Court decisions indicates that at least our present Supreme Court would be prepared to hold the overruling of the Miranda or the Wade decisions unconstitutional; and although the legislative overruling of the Mallory decisions is not so clearly unconstitutional, it would be without effect as a practical matter providing Miranda remained standing.

Secondly, the efforts to contact the jurisdiction of the United States Supreme Court and the general habeas corpus of jurisdiction though perhaps constitutional are all the more dangerous. The fact is that once it becomes popular to restrict the jurisdiction of the Supreme Court and the lower federal courts in the area of constitutional rights we are well on our way to removing the constitutional rights of the individual from judicial protection.

Finally and most important, entirely apart from any unconstitutionality, I would like to protest even more against the lack of wisdom of Title 2. The protections which Title 2 is meant to repeal are for the most part protections given to the poor and the dispossessed against a government which more and more they are feeling they have no share in. To abolish these protections, rather than decreasing crime, could only have the effect of increasing the alienation of large numbers of our minority group members, of playing into the hands of the extremists who tell them that the "establishment" is rigged against them and of increasing violence.

I hope that this bill can be defeated not only before it has any chance of becoming law but before widespread publicity can be given it. The very fact that Congress is considering such a bill at this time is a blot upon the legislative process.

Yours very truly,

JOHN KAPLAN,
Professor of Law.

THE UNIVERSITY OF TENNESSEE,
COLLEGE OF LAW,
Knoxville, Tenn., April 23, 1968.

Hon. JOSEPH T. TYDINGS,
U.S. Senate,
Judiciary Committee,
Washington, D.C.

DEAR SENATOR: We are pleased to write in support of your efforts to remove Title II from S. 917, the so-called Omnibus Crime Control and Safe Streets bill, purporting to repeal by statute the constitutionally grounded *Miranda* and *Wade* decisions, to overrule the *Mallory* decision, to remove the Supreme Court appellate jurisdiction to review state decisions admitting confession or eyewitness testimony in criminal cases, and to abolish federal habeas corpus in all state criminal convictions.

First and foremost, this proposal violates the basis of our constitutional system, which has rested, since Chief Justice Marshall, upon the view that the judiciary has the final determination as to what a constitutional provision means. The Court occupies a most advantageous position in this function, being removed from the political pressures and the emotions of a moment, the bias of a particular social or political segment of our country, and being the principal body which by custom is supposed to be impartial and judicial, and to weigh the welfare of the nation over the concerns of particular groups.

Second, experience demonstrates that the protection we can count on to preserve the new experiment of the founding of our nation, and the new ideal of government which was created, has most consistently been the United States Supreme Court.

Third, the decisions of the states have shown repeatedly that even the most fundamental and basic elements of due process are often disregarded.

Fourth, the decisions of the Court, debatable though a few have been, have, in the overwhelming majority, been consistent with the concepts of freedom for those who constitute a minority, whether the classification is based upon accusation of crime, color, race, religion, or political philosophies.

It is most disturbing to visualize a time when liberties will depend upon a particular state's interpretation of what the welfare of the nation requires, which will depend all too frequently upon the emotional and unwise preoccupations with some local bias or self interest. These are the dangers which the constitution sought to avoid. Without the jurisdiction of the Supreme Court, freedom will depend upon what state decides the question. There will be no uniformity. If the day ever comes when the Supreme Court has been effectively muzzled we will live in a different world. We will live in a nation that will have become more like the totalitarian governments of the Fascist and Communist world, which we purport to abhor, which we ought, we believe, to resist.

We hope that your efforts and those of others of like mind will succeed in arresting this tendency toward an era when freedom as we know it, will become a weakened, once adhered to, ideal.

We recognize the need to control crime more effectively and to make streets more safe. We think that this can be done in ways other than removing from our system its basic characteristic. Better trained and more efficient personnel in the law enforcement area, more effective regulation by and of the criminal law administration machinery, the removal of some of the most significant causes of the current crime picture all should be pursued much more thoroughly before the solutions are sought by the provisions of Title II.

We realize that liberty has its costs, but we believe that the destruction of liberty has a greater cost. We do not believe that we can afford the cost to our system of weakening the underpinning to freedom and liberty which the United States Supreme Court has provided.

Yours respectfully and sincerely,

HAROLD C. WARNER,
Dean.
JOSEP G. COOK,
Assistant Professor of Criminal Law.
DON F. PAINE,
Assistant Professor of Evidence.
ELVIN E. OVERTON,
Professor of Constitutional Law.
JACK D. JONES,
Associate Professor of Law.
DURWARD S. JONES,
Assistant Professor of Law.
FORREST W. LACEY,
Professor of Law.
JERRY J. PHILLIPS,
Assistant Professor of Law.
DIX W. NOEL,
Professor of Law.

UNIVERSITY OF VIRGINIA,
SCHOOL OF LAW,
Charlottesville, Va., April 23, 1968.

Senator JOSEPH D. TYDINGS,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR TYDINGS: Your letter of the 19th only came to my attention today. The timing is somewhat unfortunate in view of the fact that you need replies before April 29 and the press of other matters on such short notice does not give me the opportunity to make the type of response which your letter deserves.

I would like in any event to give you what quantitative help I can by registering my firm opposition to Title II of S. 917. It is, in my opinion, riddled with Constitutional infirmities and is likely if it becomes law to be directly provocative of a confrontation between the Court and Congress such as we have never seen. Although those sections which purport to deprive the federal courts of jurisdiction to review state court judgments undoubtedly derive some support from decisions such as *Ex Parte McCardle*, I do not believe that the present Court would, or should, read Article III to give Congress the power to exempt from the federal system review of such fundamental matters. To do so would give the Congress the power to repeal the Bill of Rights through the back door and to make the Supremacy Clause meaningless verbiage.

Let me also add that I am one who has grave doubts about the wisdom and necessity of cases like *Miranda* and *Wade*, although more to their detail than to the principles for which they stand. But I do not believe that precipitate repeal—even if it

could be effective against Constitutional attack—is a wise course, if only for the reason that those who accomplish it will think that they've done something to solve "the crime problem" or "crime in the streets". What they will actually have accomplished, on the other hand, will have been a Constitutional crisis which has little bearing at all on a real solution to our problems.

I hope that you find this letter helpful, and that you are successful in your efforts to defeat this measure. I am only sorry that I could not devote more time to helping you make a case.

Sincerely,

PETER W. LOW,
Assistant Dean,
Associate Professor of Law.

WEST VIRGINIA UNIVERSITY,
THE COLLEGE OF LAW,
Morgantown, W. Va., April 24, 1968.

Hon. JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: Dean Paul Selby, Jr., of our College has shown me your letter of April 19 calling to his attention Title II of S. 917 as it was reported by the Senate Judiciary Committee. I am shocked by the contents of Title II as it was reported by the Senate Committee and join you in a sincere concern over the grave consequences that could result from enactment of the Bill in this form. The Title as drafted would wipe out three decades of gradual improvement in the administration of criminal law as encouraged by Supreme Court decisions.

As the Bill is drafted even the original confessions case—*Brown* v. *Mississippi*—where the State Court blatently approved the admission of a confession extracted by an admitted brutal beating would lie beyond the power of Federal Courts to control. While some have fairly complained that the Supreme Court rulings in regard to confessions are overly stringent, this Bill responds out of proportion to that complaint. It throws out the baby with the bath. It strikes me that this is a major assault upon the dignity of the Federal Judicial System as a whole and I think it does not represent responsible legislation at all. I am shocked that Congress could consider going so far.

Additionally, grave Constitutional doubts are raised as to whether Congress can completely remove the availability of all Federal Courts to protect recognized Federal Constitutional rights. I urge you to work actively for the defeat of Title II. I am sending copies of this letter to Senators Randolph and Byrd urging them to take a similar position. This is a matter of utmost gravity in my estimation and represents a serious threat to the proper administration of criminal justice in the United States today.

Very truly yours,

WILLARD D. LORENSEN,
Professor of Law.

YALE UNIVERSITY,
LAW SCHOOL,
New Haven, Conn., April 26, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Many thanks for your letter of April 19, alerting me to the impending Senate debate on S. 917.

I am fully in agreement with your view that Title II of S. 917 should be stricken from the bill. Title II is, in my judgment, dangerous, retrograde legislation, which would, if enacted into law, strip American citizens of vital and hard-won procedural rights.

As I see it, Title II would, if adopted, have at least four calamitous sets of consequences:

(1) The new Section 3501 of Title 18 would strip federal criminal defendants—including those in the District of Columbia, where Congress has special responsibility to the citizens who cannot elect their own lawmakers—of the shields against official abuse written into law by the Supreme Court in *Mallory v. United States,* 354 U.S. 449; *Miranda v. Arizona,* 384 U.S. 436, and kindred decisions. Bearing in mind that *Miranda* was itself a declaration of the requirements of due process, there would seem grave doubt that a legislative overruling of *Miranda* is, at least as to federal defendants, constitutional. Nor is the constitutionality of the proposed section saved by the fact that the Court, in *Miranda,* invited legislative approaches to the problem of interrogation procedures the Court was there considering. Plainly enough, what the Court was soliciting was alternative safeguards of defendants' due process rights, not simple obliteration of the safeguards there formulated.

(2) The new Section 3502 of Title 18 would apparently deprive federal courts, including the Supreme Court, of authority to review the voluntariness of confessions admitted in evidence in state criminal trials. At one stroke this proposal would destroy one of America's firmest bulwarks against barbarous forms of law-enforcement.

Adoption of this section would mean repudiation of Chief Justice Hughes' historic decision in *Brown v. Mississippi,* 297 U.S. 798, reversing death sentences imposed on Negro defendants convicted on the basis of confessions elicited by systematic beating (a deputy sheriff who acknowledged whipping one of the defendants said he hadn't been unduly severe: "Not too much for a negro; not as much as I would have done were it left to me." 297 U.S. at 284).

The proposed legislation would undercut *Payne* v. *Arkansas,* 356 U.S. 560, in which Justice Whittaker summarized the relevant evidence as follows (356 U.S. at 567):

"The undisputed evidence in this case shows that petitioner, a mentally dull 19-year old youth, (1) was arrested without a warrant, (2) was denied a hearing before a magistrate at which he would have been advised of his right to remain silent and of his right to counsel, as required by Arkansas statutes, (3) was not advised of his right to remain silent or of his right to counsel, (4) was held incommunicado for three days, without counsel, advisor or friend, and though members of his family tried to see him they were turned away, and he was refused permission to make even one telephone call, (5) was denied food for long periods, and, finally, (6) was told by the chief of police "that there would be 30 or 40 people there in a few minutes that wanted to get him," which statement created such fear in petitioner as immediately produced the "confession." It seems obvious from the *totality* of this course of conduct, and particularly the culminating threat of mob violence, that the confession was coerced and did not constitute an "expression of free choice," and that its use before the jury, over petitioner's objection, deprived him of "that fundamental fairness essential to the very concept of justice," and, hence, denied him due process of law, guaranteed by the Fourteenth Amendment."

And the proposed legislation would likewise put beyond Supreme Court review a case like *Leyra* v. *Denno,* 347 U.S. 556, 561, where Justice Black observed:

"First, an already physically and emotionally exhausted suspect's ability to resist interrogation was broken to almost trance-like submission by use of the arts of a highly skilled psychiatrist. Then the confession petitioner began making to the psychiatrist was filled in and perfected by additional statements given in rapid succession to a police officer, a trusted friend, and two state prosecutors. We hold that use of confessions extracted in such a manner from a lone defendant unprotected by counsel is not consistent with due process of law as required by our Constitution."

In considering the impact of legislation which would remove the voluntariness of confessions in state criminal trials from federal scrutiny, you may feel, as I do, that the following facts about confession cases adjudicated in the Supreme Court in the quarter-century following *Brown* v. *Mississippi,* are relevant:

"In twenty-five years, from February 1936 (when *Brown* v. *Mississippi,* the path-breaking coerced-confession case, was decided), to June 1961, the Supreme Court set aside state court convictions on coerced-confession grounds on twenty-two occasions. Of the twenty-seven defendants involved in these cases, nineteen were Negroes and six were whites; the race of the other two is not disclosed by the record. Sixteen of the nineteen identifiable Negroes were tried in Southern courts. Only one of the six identifiable whites, and neither of the two racially unidentified defendants, was tried in a Southern court." (Pollak, The Constitution and the Supreme Court, vol. II, p. 198.)

(3) The full impact of proposed Section 3503 is hard to determine. But it apparently would, at a minimum, purport to insulate federal and state criminal convictions based on eye-witness testimony from federal judicial review even where, for example, such testimony was perjured. Of course, the introduction into evidence of perjured testimony, known by the prosecution to be false, was denominated a denial of due process of law as long ago as *Mooney* v. *Holohan,* 294 U.S. 103. To write into federal law the proposition that federal criminal convictions based on perjured testimony should be immune from appellate or collateral attack would seem a plain violation of the Fifth Amendment. To create a cognate immunity for state criminal convictions of this nature would seem to generate constitutional questions of comparable gravity.

(4) If the proposed new Section 2256 of Title 28 means what it appears intended to mean, it would virtually erase the cherished writ of federal habeas corpus as it applies to state prisons. Taken together with the preceding sections of title II, it would complete the work of making a large spectrum of vital federal claims, vainly asserted in state criminal courts, almost invulnerable to vindication by the federal judiciary. It seems not inappropriate to recall that federal habeas corpus for state prisoners chiefly derives from the Habeas Corpus Act of 1867, adopted to give some measure of reality to the new liberties contained in the Fourteenth Amendment, which had a few months earlier been submitted to the states for ratification. It would indeed be a grim irony if Congress were to celebrate the centennial of the Fourteenth Amendment by jettisoning the Great Writ.

Very sincerely,

LOUIS H. POLLAK.

P.S. In the body of this letter I have supposed that the proposals under discussion were intended to accomplish—and were so drafted as to be successful in accomplishing—very radical changes in the existing structure of federal judicial review of criminal convictions. But it is, of course, arguable that some of the proposals do not go as far as I have feared they may.

For example, the proposed new Sections 3502 and 3503 of Title 18 in terms deny to the Supreme Court and other Article III courts authority to "review [or to] reverse, vacate, modify, or disturb in any way, a ruling of any [state] trial court . . . admitting in evidence" a confession or so-called eye witness testimony. Normally, of course, the Supreme Court or other federal court does not, in passing upon a challenged state court conviction, "review, reverse, modify, or disturb" any particular evidentiary ruling except in the sense of determining whether authoriz-

ing the trier of fact to base a judgment of conviction on, *inter alia*, certain challenged evidence, worked a denial of due process. In short, the federal court acts on the totality of the state adjudication, of which a controversy with respect to the constitutionality of certain evidence may be a, or even the, key element. If the federal judicial scrutiny is by the Supreme Court on direct review, a disposition adverse to the state is a reversal of the *judgment of conviction*, not the evidentiary ruling. If the federal judicial scrutiny is by a district court on habeas corpus, a disposition adverse to the state is, ordinarily, not even an order vacating the judgment of conviction, but rather an order releasing the petitioner (notwithstanding the judgment of conviction; but, ordinarily, subject to the state's entitlement to reprosecute in a trial conforming with the mandate of due process).

Similarly, the proposed Section 2256 of Title 28 would deny to the Supreme Court or any other Article III court authority "to reverse, vacate, or modify any . . . judgment of a State court" following a verdict or plea of guilty, except on appeal or certiorari from the highest court of the state which has appellate jurisdiction to review the trial court. By placing the proposed section in the habeas corpus part of Title 28, the drafters presumably intended the proposed new section as a limitation on habeas corpus; and this is the sense in which, in the body of this letter, I have construed the proposal. However, as I have noted just above, a federal habeas court deciding adversely to the state does not ordinarily "reverse, vacate, or modify" the judgment pursuant to which the petitioner is detained; rather, the federal habeas corpus court ordinarily issues a (contingent) release order notwithstanding the (constitutionally defective) state court judgment of conviction. So, the question arises whether the provision as drafted actually accomplishes what I suppose to be the draconian curtailment of federal habeas corpus jurisdiction intended by the drafters. If the language does not accomplish this purpose, however, it is hard to assign operative effect to the quoted language, or to the preceding language purporting to assign "conclusive" effect to the state court judgment as to "all questions of law or fact which were determined, or which could have been determined" in the state trial court. (If the proposal works the drastic cutback on habeas corpus which I suppose was intended, very serious constitutional questions are presented—questions which are the more serious in proportion as the companion provisions of Title II curtail federal judicial scrutiny, by direct review on appeal or certiorari, of substantial claims of denial of due process of law.)

BILL BAGGS OF MIAMI NEWS CALLS PEACE TALK SITE DISPUTE "NIT-PICKING"

Mr. HARTKE. Mr. President, William Baggs is one of America's outstanding journalists and editor of the Miami News. He was in Hanoi at the time President Johnson proposed the opening of preliminary peace talks, and observed the "prompt" response of the Central Committee as the governing force in North Vietnam.

In his regular columin in the Miami News, Mr. Baggs commented recently on the peace talks offer of President Johnson and our failure to implement it realistically with agreement on a meeting site. Our diplomats, he says, "have amused themselves in a minuet of pataphysics," as they have proposed sites known to be unacceptable to Hanoi and dismissed not only Pnompenh but Warsaw as well. Now, he says, "we are almost at the point of denying any prospect of a meeting by nit-picking over where to meet."

Mr. President, I ask unanimous consent that Mr. Baggs' column from the April 22 Miami News, entitled "L. B. J. May Blow Viet Peace Talk," may appear in the CONGRESSIONAL RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

L. B. J. MAY BLOW VIET PEACE TALK

Lyndon Baines Johnson and his counsellors seem, more and more, to be expert mechanics in nit-picking.

In the late days of March and the early days of April, Mr. Johnson made what appeared to be a magnanimous gesture: the country was vigorously divided over the war in Vietnam; he would restrict bombing of the North Viet territory to the Demilitarized Zone and, putting a kind of Confederate Imprimatur on it, he announced he would not be a candidate for President.

Indeed, this appeared magnanimous for Lyndon Johnson. And the response from Hanoi, witnessed by this reporter who was in the city at the time, was prompt.

NORTH VIETNAMESE RESPONDED QUICKLY

In the first five days of April, the Central Committee which governs North Vietnam, met and responded to the President with two papers. The first of these papers, on April 3, Hanoi time, said that a representative of North Vietnam would meet with a representative of the U.S. Within 12 hours, Mr. Johnson responded that a representative of the United States would meet with the diplomat from North Vietnam. What hasn't been reported to date is that the North Vietnamese government, on April 5, sent a specific proposal for a meeting.

Since then, our diplomats have amused themselves in a minuet of pataphysics. The North Viets suggested we meet in Pnom Penh. This is a lazy French colonial city stuck away down in Cambodia, near the Mekong River, and a reluctance by Mr. Johnson to meet there is understandable. We do not recognize Cambodia and Cambodia does not recognize us. Communications could be difficult. Our affairs in Cambodia are handled by the Australian Ambassador, and it is known that communications between Washington and the Embassy of Australia in Pnom Penh have been less than efficient.

However, then the North Viets suggested Warsaw. Last week, many persons in the Department of State thought Warsaw was a perfectly acceptable site. It is a very bugged town. But the diplomats could arrange private conversations in Warsaw. Heck, our own diplomats have been meeting with the Chinese there for years in relative privacy.

STATE DEPARTMENT MEN OVERRULED

Somewhere between the State Department and the White House, the idea of meeting in Warsaw was overruled, and this was strange. Warsaw is at least as foreign to the North Viets as it is to the United States. Warsaw is "western country." And the Asians are suspicious of the round-eyes of our western civilization. Why we rejected Warsaw remains a mystery to a number of people who think that there is some sincerity in the announced willingness of the North Viets to come to the conference table.

Meanwhile, our remarkable Secretary of State, Dean Rusk, has proposed sites which presumably the Secretary of State would know are not acceptable in the circumstances. For instance, the North Viets are not about to meet in New Delhi for a simple reason. India and China are very hostile to one another, and the territory of North Vietnam lives in the large and grotesque shadow of China.

The suggestion by Mr. Rusk that the two parties meet in Laos, to be crude, verges on the idiotic. The North Vietnamese very well know that our country uses Laos as a base for military action against the North Vietnam military.

Of course, there are men in our State Department who very well wish to see this questionable war ended. But in a very confusing method of decision-making, these men are cut off at the knees every time a prospect is hoisted.

Mr. Johnson or his anonymous counsellors or Mr. Rusk or someone up there in the beehive of our diplomacy has been fuzzing up this entire event.

The simple facts are that Mr. Johnson made a gesture and this reporter was in Hanoi at the time and was privy to the response of the North Viets. Their position was clear enough. If Mr. Johnson wanted to talk, they were willing.

But now, it seems, we are almost at the point of denying any prospect of a meeting by nit-picking over where to meet. It is interesting that our government has not proposed the City of Paris, where both countries maintain diplomatic missions.

Moreover, the danger inherent in all of this diplomatic nonsense is that a failure to agree on a meeting place could not only blow the prospect of talks, but also could lead to a much more intense conflict in Southeast Asia.

DR. HOWLETT SUPPORTS THE GUN BILL

Mr. DODD. Mr. President, yesterday at All Souls Unitarian Church in Washington, its distinguished minister, the Reverend Duncan Howlett, preached a sermon of exceptional eloquence and cogency, urging the enactment of the gun control legislation that comes before the Senate this week.

I would particularly invite the attention of Senators to the following brief excerpt from Dr. Howlett's remarks:

Perhaps through the efforts of the National Rifle Association, perhaps through the astonishing success of their campaign of misrepresentation, we shall reach a new level of sophistication in this country regarding mail to Congress. Knowing the results of the public opinion polls, and knowing that the deluge of antigun control mail is based upon misrepresentation, cannot our Senators, or most of them, now ignore it and vote their wisdow and conscience on this matter?

All we have here is a paper tiger. Will not the whole campaign collapse when it becomes clear to the gun owners, as it surely will, that all their fears are groundless? Would a Senator who voted for control be turned out of office if, despite the new legislation, the hunters found they could still go hunting, with no more red tape than at present; if the gun collectors found they could still collect guns with no more difficulty than they have now, and if targetmen and others found they could continue their sport with the same freedom from restrictions they now enjoy?

If our Senators will vote their convictions on this issue, I believe we shall have taken another forward step in the operation of democratic government.

Mr. President, I ask unanimous consent to have printed in the RECORD the complete text of Dr. Howlett's sermon, entitled "Guns for the People."

I hope that Senators will find the time to give it the careful reading it merits.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

GUNS FOR THE PEOPLE

(A Sermon by The Reverend Duncan Howlett, D.D., All Souls Church Unitarian, Washington, D.C., Sunday, April 28, 1968)

In a democracy the voice of the people rules and it does so to a greater degree than we ordinarily suppose. The reason is that in order to be elected, our leaders must reflect the thoughts and feelings of most of the people on most of the issues they care about. Yet our leaders often do not reflect our views. Often they vote contrary to the popular will.

There are many reasons why they do this. Sometimes they do it for conscience' sake. More often they do it because there isn't any popular will: people haven't made up their minds, or they are indifferent. But most often the people do not even know that a particular issue exists. Such ignorance among the voters may seem deplorable, but in a democracy it is inevitable. Even with the aid of the League of Women Voters and other similar groups, people, already busy with their own affairs, cannot play watchdog on all the bills that come—or fail to come—before the Senate, the House, their own state legislatures, the issues before their city councils, school boards, and all the civil and social organizations to which they belong as well.

That is why special interest lobbies are so effective. They operate in a political vacuum. The great majority of voters does not even know of their existence, much less what they are up to. Thus, on an issue where most people are ignorant, and totally inactive, a small, well-organized minority can convey the impression that theirs is the only point of view the voters have. And thus they influence their elected representatives out of all proportion to their number.

We have before us in the Senate right now a classic example of this kind of political pressure. For a generation a highly organized body of gun-lovers in this country have prevented the enactment of any effective legislation to control the distribution and possession of firearms among the American people. And through most of this time, most of the voters have been quite ignorant of the fact.

Whenever any bill for any kind of gun control has been about to come before the Senate, the National Rifle Association, the National Shooting and Sports Foundation, the gun magazines and others so inundate the Senate with letters and telegrams from their constituents, opposing any gun legislation, the Senators feel powerless to act. The number of high-minded Senators who privately believe in gun control, but who vote against such bills in committee so that the bills never reach the floor for debate, is quite beyond belief.

In saying this, I impugn the integrity of none of these men. Among them are some of the ablest, most forward-looking, and high-minded men in the Senate. They are sincerely trying to represent their constituents. Let me illustrate the point with a story.

Last summer (1967) Senator Hruska called for more hearings on the gun bill then before the Senate. Evidence of the pressure that had meanwhile been built up against it can be seen in the number of Western Senators who took a position against the bill. Among them was Senator Frank Church of Idaho. Already in trouble with his constituents because of his strong stand against the war in Vietnam, he had distributed hundreds of petitions asking for support for his stand against any kind of gun control. He brought the results to the hearings. His petitions bore forty-four thousand signatures endorsing his stand against any gun control legislation at all, and but five lonely letters supporting such legislation. Which way would *you* vote under that kind of mandate? His is an extreme case, to be sure, but many Senators reported similar results from the mails and telegraph.

How do the National Rifle Association, the National Shooting and Sports Foundation and gun and sporting magazines induce people by the thousands and in all parts of the country to write the letters they do? By a simple appeal to their prejudices and fears. The propaganda from these groups consistently misrepresents the bills submitted to Congress. "Don't let them take your arms away," the gun media cry, although no bill that is taken seriously makes any such proposal. "This is only the first step," they warn darkly. "In the end they will confiscate your guns, disarm you and leave you helpless . . ."

The wide discrepancy between the facts and the propaganda sent out by gun magazines and organizations has been thoroughly documented. I wish there were time to present some of it to you. The most recent and one of the most complete analyses is by Richard Harris in *The New Yorker* for April 20. It is a first-class job and is well worth your reading. Unfortunately, this morning we have no time for documentation. I can only ask you to accept what I say and refer you to the sources if you want to check them. The Senate Subcommittee on Juvenile Delinquency will provide you with all the data you need. Best of all, go to the library and read some of the back issues of *The American Rifleman, Guns and Ammo,* and other similar media. Read for yourself the kind of distorted material that appears there.

Let me cite you an example from my own files of the inflammatory character of some of this material. Last May at the General Assembly of the Unitarian Universalist Association I clipped the following from the *Denver Post*. It was a front-page headline story: "Armed Civilian Units Urged to Curb Mobs," the headline read: "Rifle Association Sends Appeal to 800,000." The article begins: "Washington—The National Rifle Association has urged its 800,000 members to form armed civilian posses to provide 'a potential community stabilizer' against urban rioting. The Association has told its membership that "the best police on earth, alone, cannot stem the kind of mob violence that has swept many American cities.' Nine of the 11 urban disorders cited in the May issue of the Association's magazine as 'mob action on a scale unprecedented in the modern United States' were clashes involving Negroes."

Obviously, a lobby that would make such an appeal to prejudice and fear is not to be defeated by arguments. Every argument they have made has long since been demolished. All their falsehoods and misrepresentations have long since been exposed. Yet they go on repeating both. Nothing is left but the foot-in-the-door, nose-under-the-tent argument: if you pass this legislation, it is the first step toward the disarming of the people and the ultimate confiscation of all guns.

Since this is the only argument the gun lobby has left, let us consider it for a moment. Notice that it is a prophecy, not a statement of fact. Thus the only way to meet it is with another prophecy. But let us ground ours not on guesswork and fear, but on current statistics we have no reason to think will change unless the conditions that cause them change.

Present statistics on murder with guns—short, long, foreign, domestic—of every variety show that we can expect next year over 7,000 murders by gunfire. We can also confidently expect 18,000 deaths by the accidental discharge of a gun. I was unable to get any statistics on the number of people who were shot but managed to live, yet who, as a result, are maimed for life.

High as this rate is, it is accelerating. Who, then, can even guess how far a gun control bill would reduce these figures? The evidence from European countries, where strict gun control laws have long been in effect, gives some indication. My figures are for 1963, the latest year for which I could get them. In that year the United States could boast 2.7 murders by gunfire per 100,000 of population. In that same year, Switzerland had .11 per 100,000, or 1/25th as many as the United States. Great Britain had 1/50th as many, and the Netherlands 1/90th as many murders by gunfire as the United States. And the National Rifle Association dares to say that gun control legislation wouldn't do any good!

These few somber statistics by no means complete the evidence that suggests how things might change if we could pass a gun control law in this country. As you are no doubt aware, Senator Dodd, for all that has been said against him, has to his credit the fact that for years he has led the fight in the Senate for a gun control bill. In the spring of 1963, the Subcommittee on Juvenile Delinquency, of which he is Chairman, conducted an injury into crime and public danger caused by cheap, easy-to-get mail order guns. His work that spring was as unavailing as it had been in previous years, but as we now know, it was fearsomely prophetic. That bill, or certainly its predecessor had it been passed, might have prevented the assassination of President John Kennedy.

Reflect for a moment. Suppose the gun control bill of 1961 had been passed rather than buried in Committee as it was. Then on March 13, 1963, when Lee Harvey Oswald clipped a coupon from the February issue of the *American Rifleman* magazine and sent it to Klein's Sporting Goods Company in Chicago under the fictitious name of A. Hidell, the police would have learned of the shipment, or Klein's would not have been able to send the gun to Oswald.

It is at this point more than at any other in the whole tragic chain of events that his crime might have been prevented; here, in a bill still languishing in committee at that time, a bill whose provisions were such as to have made the crime very unlikely, at least as Oswald committed it. This thought, that the assassination of President Kennedy might have been prevented by legislation already before the Congress, had it been enacted, catches one by the throat.

When all this was revealed following the assassination there was a flurry of excitement on gun control legislation. It was then that a great many people learned for the first time how great the problem was. It was true with me. I had been vaguely aware of the problem but ignorant as to its scope and cause. Like most people, I had not known of the earlier efforts to get gun control legislation through the Senate, and of the character of the opposition to this effort.

My first sermon on gun control came the Sunday following our memorial service to John Kennedy. As a result of it, I experienced for the first time some of the fanaticism that characterizes the anti-gun control people. But the letters I received following that sermon were mild compared with those that followed my second effort a year later, a criticism of the Warren Report for not including a gun control law among its recommendations. I get some pretty hot letters sometimes, but it is not often that they contain the vituperation that bag of mail brought.

Nevertheless, incredible as it now seems, the hearings on the gun control bill held in December 1963 and in January and March 1964 were of no effect. The gun lobby was so strong that with the memory of a young President's martyrdom still searing the mind of the world, no progress on gun control was made, none. And no progress has been made since that time either.

There are certain scenes in American history upon which we look back with indignation and shame and with astonishment that

such things could happen. The death by gunfire of a brilliant young President was such an event. The death of a great moral and spiritual leader, Martin Luther King, was also. But I would like to describe to you one more. It is not another murder, not another martyrdom, not another assassination, but it bears upon these things and it sickens my soul as I think about it.

A year ago the National Rifle Association assembled here in Washington 10,000 strong for their national convention. Senator Edward Kennedy asked permission to address the assembly in order to lay before them the reasons for the gun bill then before the Senate and to refute the false arguments so consistently repeated in the pages of their magazine. Permission to address the national assembly was refused on the ground that the meeting he asked to address had been cancelled. Kennedy was, however, granted permission to speak to a closed session of the 75-man Board of Directors.

There he attacked the Association for its position and cited the deaths that occur annually in the United States from guns, as well as the mounting demand of the American people for some kind of gun control. He pointed out the falsity of their propaganda and reminded them of its effectiveness. He reminded them of the need for the Senate bill. He reminded them too that it would in no way interfere with the sport involved in the use of guns.

But Edward Kennedy did not remind them that as he spoke, his own brother lay buried not two miles from where they were gathered, the victim of rifle fire a gun law might have prevented. He did not need to. Which of his hearers did not reflect upon that dreadful truth while he was speaking to them. In silence they heard him appeal to their patriotism, their sense of honor and charity. In silence they beheld the tragedy in the figure that stood tall and unsmiling before them. In silence they sensed the ache in his heart, an ache that will never leave him quite, or the American people either.

What they said to one another after he left, they alone know. The hardness of their hearts was indicated by the scant notice given his words in their NRA magazine, matched by the now scare material on pending gun legislation with which its pages were soon filled. And now we have another great stain upon ourselves as a people in the martyrdom of our great moral and spiritual leader Martin Luther King, again by gunfire, again by the use of a gun the purchase of which might have been prevented by laws that have languished so long in Senate Committees.

How many more leaders must die before we wake up? How many more of our citizens must be murdered and maimed, raped and robbed at gunpoint before we are ready to act? Maybe not much longer. Maybe the hour has struck. Maybe the stranglehold of the gun lobby on the American Congress has at last been broken.

Next Wednesday, last year's gun control bill will be brought to the floor of the Senate for debate. It comes as Title IV in the Administration's Safe Streets and Crime Control bill. It was made a part of the bill the day after the assassination of Dr. King. That this bill should now be up for debate is an historic event. Since 1938 no bill to control the distribution and ownership of firearms has ever reached the Senate floor. Many such bills have been introduced but they have all been killed in committee. The death of Dr. King is too high a price to pay for this legislation. But this breakthrough is his bequest to us. Then in his memory, as a man of peace, let us see it through to enactment.

The half truths, the distortions, the misrepresentations of a generation of gun makers and users at last have run their course. The arguments are all in and they have been shown to be empty. Their alleged facts have been shown to be untrue. The gun lobby cannot forever persuade letter-writers to denounce bills that have never yet been drafted. Their long-continuing pattern of distortion, misrepresentation and fear lies open and exposed at last. The shoddiness of what they have been doing can now be seen by anyone who cares to look. News stories and magazine articles on their work are steadily increasing in number. There has, as you know, been a stunning series of editorials favoring gun control in the *Washington Post* by Alan Barth. Public opinion polls show that 71–85% of the American people now favor some kind of gun control, depending upon the circumstances.

Perhaps through the efforts of the National Rifle Association, perhaps through the astonishing success of their campaign of misrepresentation, we shall reach a new level of sophistication in this country regarding mail to Congress. Knowing the results of the public opinion polls, and knowing that the deluge of anti-gun control mail is based upon misrepresentation, can not our Senators, or most of them, now ignore it and vote their wisdom and conscience on this matter?

All we have here is a paper tiger. Will not the whole campaign collapse when it becomes clear to the gun owners, as it surely will, that all their fears are groundless? Would a Senator who voted for control be turned out of office if, despite the new legislation, the hunters found they could still go hunting, with no more red tape than at present; if the gun collectors found they could still collect guns with no more difficulty than they have now, and if target-men and others found they could continue their sport with the same freedom from restrictions they now enjoy?

If our Senators will vote their convictions on this issue, I believe we shall have taken another forward step in the operation of democratic government. We shall have attained a new level of sophistication in assessing the meaning of letters to Congress. We have always known that it doesn't matter how much mail a Congressman gets: that may only be a measure of the effectiveness of a propaganda agency. What matters is *why* he gets it. If the propaganda that produces it is true, he had better beware. But if it is false or misleading, this can be shown. If it is based on prejudice and fear, this too can be shown. When it is, the mail campaign can safely be ignored. It is my contention that most of the Senators could do this with Title IV of the Safe Streets bill.

But we can't put the entire burden on the Senate. And we have no right to. The voice of the people must be heard. Someone must speak for the 70%, 85%, whatever the figure is—those of us who want gun control and who want it now. Let our voices be heard, your voice and mine. There is still time. Let the voice of the people say to our Senators that we want the gun control section kept in the Crime bill: we want it strengthened by amendment, if possible. If this is what *you* believe, now is the time to speak. Now is the time to make your voice heard.

We cannot remove from ourselves the stain that spreads over us from the long series of assassinations of American leaders who stood for righteousness and brotherhood, justice and mercy. We cannot remove from ourselves the stain of thousands of murders of ordinary folk by gunfire or the thousands of maimings of those who survive, or the thousands of assaults a gun made possible. None of this can we remove from the story that will be told of the America we have known.

But let us add to that dreadful tale a new chapter. Let it also be said of us that as we hung our heads in shame to think that all this was true, so we then stood forth and demanded that the control of guns begin here and that it begin now, before another national leader falls victim to evil men, and before more thousands of our citizens are gunned down. Let that be said to us. Despite the dreadful past, let that be our legacy to those who come after us.

God of justice, rouse us from our lethargy.
God of mercy, move us to act.

FREEING THE AIRWAYS FOR ELECTION DEBATES

Mr. HARTKE. Mr. President, there appeared in the Washington Post of April 24, 1968, a column by Roscoe Drummond in which he urges all presidential candidates to utilize television fully in their campaigns for the benefit of the voters. Mr. Drummond suggests that the candidates meet on a television program with nationwide coverage, or—better than that—Congress ought to enable the networks to give free time for the appearances of the candidates by acting upon legislation that is now before the Senate Commerce Committee.

I have introduced a bill (S. 2128) to repeal section 315 of the Communications Act of 1934. This would permit such debates and other appearances on television and radio by presidential candidates and substantial candidates for various offices.

Mr. President, I ask unanimous consent that this article entitled, "All Presidential Candidates Urged To Utilize Television," be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALL PRESIDENTIAL CANDIDATES URGED TO UTILIZE TELEVISION

There are strong reasons why the candidates for both presidential nominations ought to face each other on television.

It would be valuable for the voters to see Vice President Humphrey and Sens. Kennedy and McCarthy on the same nationwide program, each expounding his case—and the same for Nixon and Rockefeller. This is why:

1—It seems increasingly likely that the opinion polls will be more controlling at the conventions than the results of the primaries. The primaries only show how a candidate attracts the voters of his own party in a few states; the polls show how well he attracts all voters and thus tell more about his chances of winning the election.

2—If the polls are going to be as decisive as seems probable, then the whole Nation should be able to measure the candidates more effectively than is possible when they are campaigning most of the time in a few primary states.

3—The value of such joint television confrontations is not primarily to sharpen policy differences among the candidates. To the extent there are such differences, they should be known. The main value of viewing them together is to measure their personal fitness for office—their credibility, their trustworthiness, their ability to unite and reconcile a divided Nation.

The best—and the worst—of a political candidate comes out in joint debate and, since the polls reflect national opinion, the voters as a whole ought to have this additional means of judging the contenders.

There are two ways this could be done.

The nationwide TV panel shows—Meet the Press, Face the Nation, Issues and Answers—could invite the Democratic candidates to appear on the same program—and the Republican aspirants on another Sunday.

But better than that—or at least in addition to it—Congress ought to approve the measure which is now before the Senate

Commerce Committee to enable the networks to give free time for the joint appearances of the candidates. There is no reason why this shouldn't be as applicable to the pre-convention period as to the election campaign itself.

It seems to me that Kennedy, McCarthy and Humphrey ought to welcome the opportunity. It would be good for them because it would provide each with a maximum national audience which none would otherwise command. It would be good for the Nation's voters because it would give them the chance to see how well the candidates measure up beside each other rather than in isolated appearances.

Surely, if the polls are going to be as influential in the choice of nominees as now seems likely, then the voters in the great majority of states in which none of the candidates will be campaigning need to see them in action. There is no better way to see them and judge them than in joint TV appearances.

If he continues to be a non-candidate, perhaps Gov. Rockefeller might hesitate to appear with Nixon. I see more reasons why he should do so than not. He says he wants to expound his views to the Nation. He needs to repair the indifferent impression he made at the newspaper editors' meeting in Washington last week. Since he is willing to be drafted, he ought to be willing to be judged alongside the man who now most favored for the Republican nomination. I have no doubt that Nixon would accept and if there is a "new" Nixon—as there appeared to be in his virtuoso performance before the same editors—then a joint appearance with Rocky would make him increasingly visible.

Television has a special campaign value and it ought to be used imaginatively for the benefit of the voters.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 15131) to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. McMILLAN, Mr. WHITENER, Mr. SISK, Mr. FUQUA, Mr. NELSEN, Mr. HARSHA, and Mr. BROYHILL of Virginia were appointed managers on the part of the House at the conference.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 2434) for the relief of Nora Austin Hendrickson.

AMENDMENT OF THE LAND AND WATER CONSERVATION FUND ACT

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business which the clerk will state.

The BILL CLERK. S. 1401, to amend title I of the Land and Water Conservation Fund Act of 1965, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Who yields time.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent to suggest the absence of a quorum, with the time to be equally charged to both sides.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MORSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LONG of Louisiana. I object. Mr. President, I regret that I must object on controlled time.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will continue the rollcall.

The rollcall was concluded, and the following Senators answered to their names:

[No. 121 Leg.]

Aiken	Hickenlooper	Murphy
Anderson	Hill	Nelson
Bible	Holland	Pearson
Byrd, W. Va.	Inouye	Pell
Church	Jackson	Prouty
Clark	Jordan, N.C.	Talmadge
Dirksen	Jordan, Idaho	Thurmond
Ellender	Long, La.	Tydings
Fulbright	Mansfield	Williams, Del.
Griffin	McGee	Yarborough
Hansen	Metcalf	Young, N. Dak.
Hartke	Morse	Young, Ohio

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. LONG of Louisiana. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

After a little delay, the following Senators entered the Chamber and answered to their names:

Baker	Eastland	Monroney
Bartlett	Ervin	Morton
Bayh	Fong	Proxmire
Bennett	Hayden	Randolph
Brewster	Hruska	Russell
Brooke	Lausche	Scott
Burdick	Magnuson	Smathers
Byrd, Va.	McClellan	Smith
Carlson	McGovern	Sparkman
Case	McIntyre	Stennis
Cooper	Miller	Symington
Dodd	Mondale	Williams, N.J.

The PRESIDING OFFICER (Mr. TYDINGS in the chair). A quorum is present.

Who yields time?

Mr. ELLENDER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Mr. ELLENDER. Mr. President, I ask the indulgence of Senators so that I may state and clarify the issues presented by the pending bill, and explain how the amendment I have offered would affect the bill reported by the committee.

As Senators know, the bill would dedicate an additional $700 million to the land and water conservation fund over the next 5 years. This amount would be in addition to approximately $500 million which is already dedicated in the land and water conservation fund.

Mr. President, this sum of $500 million is provided for in the act that was passed in 1965 whereby the admission fees from all parks and recreation areas were put into a fund, as well as the unclaimed proceeds of Federal taxes on fuel that is used in pleasure boats, and those moneys derived by the General Services Administration from the sale of surplus Government land.

Mr. President, since the act of 1965 was placed on the statute books, about $100 million a year has been collected from those three sources and, of course, that amount is available for the expenditures for parks, for the purchase of park lands, and for grants to the States. These dedicated funds will continue to be available for park acquisition.

Under the committee bill $1.2 billion would be completely and totally dedicated to the acquisition of park lands through the land and water conservation fund over the next 5 years.

Under my amendment, the current dedication of $500 million would remain intact. It would not be affected. However, my amendment would prevent the automatic dedication of the additional $700 million and would provide, instead, for a straightforward authorization for the appropriation of this amount in accordance with the well-established and usual method of providing funds for valid Federal purposes.

I urge the Senate to adopt this approach. Now is not the time for the Government to reduce the amount of money which flows into the Treasury and which is available by appropriation to finance Federal programs already in existence.

Mr. LONG of Louisiana. Mr. President, will my colleague yield?

Mr. ELLENDER. I yield.

Mr. LONG of Louisiana. What concerns me about the proposal in the bill is that nowhere do I find a table showing the share of the money to be spent in each State. Can the Senator direct me to that part of the committee report, or to tesimony on the bill, which will show what each State hopes to get out of the $1.3 billion?

Mr. ELLENDER. The act of 1965 provides that two-fifths of the grant portion will be distributed equally among the 50 States, and that three-fifths will be distributed according to need. In other words, if one State needs more than another, it is left up to the Secretary of the Interior to make that decision under the act.

Mr. JACKSON. Mr. President, will the Senator from Louisiana yield there for a point of correction?

Mr. ELLENDER. I yield.

Mr. JACKSON. I think the Senator will find that the Appropriations Committee has the authority to give up to 60 percent to the States——

Mr. ELLENDER. The Senator means out of the 15 percent——

Mr. JACKSON. No. Out of the funds

available; 60/40—60 percent to the States and 40 percent to the Federal Government; 15 percent is for flexibility so that we can give—it is up to the committee——

Mr. ELLENDER. I was referring to the grant portion of the fund, that is the 60 percent which goes to the States. I was attempting to explain what the States receive.

Mr. JACKSON. I am sorry. I thought the Senator said that the States would get two-fifths or 40 percent—I believe that is in the record. I wanted to make it clear that the Federal portion is 40 percent and the——

Mr. ELLENDER. That is right. And the 60 percent——

Mr. JACKSON. Is for the States——

Mr. ELLENDER. To be distributed among the States.

Mr. JACKSON. Right. I misunderstood the Senator. I thought he said 40 percent to the States and 60 percent to the Federal Government.

Mr. LONG of Louisiana. The reason I ask this question is that when we bring up a legislative measure with the Finance Committee, on public welfare, and even when the Appropriations Committee reports, that committee, as well as the Finance Committee, will usually get up a chart to show what the share will be, and we can see whether it is a good program or not, see how much it will cost, and how much to put up. As the Senator knows, all this money is going into the Treasury now on receipts from the Outer Continental Shelf.

Mr. ELLENDER. And appropriated in the regular manner. That is, the Appropriations Committees of House and Senate recommend to their respective bodies how the funds should be distributed.

Mr. LONG of Louisiana. That is right.

Mr. ELLENDER. According to the request and justification made by each department of Government.

Mr. LONG of Louisiana. Would it not be fair to state that each State should be given a chart to show how much we get and how much the other folks get so that we would know what the share would be, and we would know where we stand.

Mr. ELLENDER. It would be rather difficult to do that at the moment, I would say to my colleague, because the fund varies. Sometimes collections will be $200 million per year, or $250 million. The formula is provided for in the act of 1965. As I said a while ago, two-fifths of the grant portion goes to the States equally and then the Secretary of the Interior has the right to take the rest of it and make it available to the States according to their needs.

Mr. LONG of Louisiana. Yes. But is there anywhere we can look to see how the money has been divided and anticipate how the $1.3 billion will be divided?

Mr. ELLENDER. I understand that under the present law, there has been distributed in the neighborhood of $300 million. I presume that the committee obtained the information to indicate how that amount was distributed among the States.

Mr. JACKSON. As the Senator knows——

Mr. ELLENDER. As I recall, about $200 million-plus was given to the States. I think that is the figure.

Mr. JACKSON. Mr. President, will the Senator from Louisiana yield to me to respond to him in my own time, and give me 1 minute to respond?

Mr. ELLENDER. I yield.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). The Senator from Washington is recognized for 1 minute.

Mr. JACKSON. The CONGRESSIONAL RECORD will disclose that on the opening day of debate and discussion on the pending measure, S. 1401, I placed in the RECORD a complete breakdown of the expenditures, appropriations, and the amount made available to each State. That information is in the RECORD and is available, of course, to each Senator.

Mr. ELLENDER. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

Mr. ELLENDER. From the collections made since the act of 1965 was put on the statute books, the amount collected was $289,239,336. In addition to that, Congress appropriated $53,650,087, for a grand total of $342 million, of which $214,314,808 was distributed among the States.

The rest of it was distributed as follows: National Park Service, $78 million plus. Forest Service, $48 million plus. The Bureau of Sport Fisheries and Wildlife, $2 million plus.

I invite attention to the fact that even though we have a dedication of all the funds to the purchase of land, yet Congress provided, in addition to that, $53 million plus. Under the amendment I am proposing, the $500 million which will be collected under the present law will not be affected at all. It will remain in the Treasury, to be distributed under the provisions of the 1965 law.

There is nothing to prevent House and Senate from appropriating more funds. The fact is, the amendment I am proposing would authorize an additional sum equal to $700 million to be appropriated over a period of 5 years in order to buy parks and parkland. That is not changed at all.

The only thing my amendment would do is elimination of earmarking revenues. That is about all it would do. I think it should be that way. As I pointed out last week, we have an enormous number of public works and reclamation projects to construct all over this country.

Last year, under a resolution passed by the Congress, over $66 million of funds were cut from the appropriation Congress made for the purpose of constructing public works.

I further pointed out that, with respect to every project constructed, where there is a dam involved to protect land for flood control or other purposes, recreation facilities are created at the site which are used by everybody in the locality. It seems to me that if we can continue that process, the people as a whole will have more accessible places for recreation than if this huge sum were to be used to buy large areas of land for park purposes.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield for a question.

Mr. LONG of Louisiana. Is it not true that the Senate voted for a $6 billion cut in spending below the budget, and from that amount will be excluded the national defense? So does that not mean, then, that desirable works projects ought to be cut to the bone now, if Senate action prevails; that, in all probability, the Interstate Highway System, which is already 3 years behind, will be delayed further; that programs such as urban renewal have been cut to the bone and will be cut again; that programs to help the poor have been cut and will be cut again? Notwithstanding all that, in this proposed appropriation there is a dedication of funds in the latter years of $100 million more than the Budget would recommend.

Mr. ELLENDER. $200 million.

Mr. LONG of Louisiana. $200 million more than the Budget would recommend. All the revenues would be dedicated to that purpose, even though they would not know what the money would be spent for and though they could not get a Budget recommendation for it.

Mr. ELLENDER. In addition to the $6 billion cut that we voted a few weeks ago, we imposed on the taxpayers of the country a 10-percent surtax.

Mr. LONG of Louisiana. A 10-percent surtax; and we are still going to have a big deficit.

Mr. ELLENDER. That is correct.

The point I make is that we should not earmark funds being paid into the Treasury as is being proposed.

Under my amendment, the current dedication of $500 million would remain intact; it would not be affected. However, my amendment does prevent the automatic dedication of an additional $700 million, and provides, instead, for a straight forward authorization for the appropriation of this amount, in accordance with the well-established and usual method of providing funds for valid Federal purposes.

I urge the Senate to adopt this approach. Now is not the time for the Government to reduce the amount of money which flows into our Treasury, and is available, by appropriation, to finance Federal programs already in existence.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. I yield myself 5 additional minutes.

Let me emphasize again to Senators that, as matters now stand, every penny of the revenues and income produced from the Outer Continental Shelf flows into the general fund of the Treasury, where it is available, by appropriation, for such purposes as the Congress and the President may determine. This is as it should be.

The committee bill would withdraw $700 million of this money from the general fund of the Treasury over a period of 5 years, place it in the land and water conservation fund, and require that it remain there, unexpended and unavailable for expenditure, unless the funds were spent to purchase additional parklands, or for similar purposes.

It strikes me, Mr. President, that this is no time for the Congress to reduce the amount of money which is already

available for the payment of general Government obligations, by freezing into any fund, or for any purpose, an amount of money approaching $700 million. The Senate, just a few weeks ago, voted to impose a 10-percent surtax on our people, in an effort to stem inflation, and perhaps bring our budget into some kind of balance. We have voted to extend certain excise taxes. We are confronted with the urgent necessity for reducing Federal expenditure. Yet, at this very moment, we are being asked to take some $700 million "out of commerce," so to speak, and freeze this amount for specific purposes, the purchase of parklands.

This does not make good fiscal sense, Mr. President; it is the very height of fiscal irresponsibility. Congress must maintain control over the budget process; we must keep our hands on the Government purse strings. The Congress, through its Committees on Appropriations, must keep inviolate its power to determine what priority should be given to what expenditures, and to control these priorities through the appropriations process. Congress should not delegate its responsibilities.

My amendment does just that, Mr. President; it authorizes the appropriation of the precise amount which the Committee on Interior and Insular Affairs has recommended, but it requires the proponents of programs so authorized to annually come to the Congress and make their case for appropriations. My amendment would treat the land and water conservation fund in just the same way as other Federal programs are treated. Why should the purchase of parklands be given an automatic priority, to the tune of $700 million—over and above the $500 million already dedicated to those purposes—while programs such as slum clearance, job training, flood control, navigation, and even our national defense must annually justify their needs and secure an appropriation from Congress on the basis of that justification?

To ask the question answers it, Mr. President; no such valid reason can be shown.

Let me remind Senators that unless my amendment is adopted, Congress will, in effect, be committed to appropriate some $1.2 billion over the next 5 years for the purchase of parklands, or see the money remain unused, unexpended, and unavailable for any other purpose.

On the other hand, should my amendment be adopted, the Secretary of the Interior would continue to be guaranteed some $500 million for parkland acquisition over the next 5 years, and, in addition, would have the right to request up to an additional $700 million by simply coming before the Committee on Appropriations and making his case for the need for such expenditures.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. I yield myself 5 additional minutes.

Nothing could be fairer than this, Mr. President; it is the very same procedure which applies to almost every other Federal program, from flood control and navigation to the food stamp program. It is the procedure which enables the Congress to retain control over the purse strings.

Let me state again: My amendment would not, by any stretch of the imagination, injure the recreation program; the Secretary of the Interior would still have half a billion dollars over the next 5 years, dedicated to parkland acquisition. My amendment merely tells the Secretary that if he wants any part or all of the additional $700 million, he will have to request an appropriation, justify it before the Appropriations Committees of the Congress, and secure such additional amount, as he may justify, in the usual way.

In other words, Mr. President, Congress has exercised its own judgment, and the President has exercised his own judgment, as to where to put the moneys available. Let that priority be determined by the executive department as well as by the Congress, and on an annual basis. Priorities shift from one year to the next.

It is a simple matter of what comes first, Mr. President—it boils down to whether or not the Congress is to retain its right and duty to allocate the fiscal resources of our country among the various programs which wish to draw against those resources, or whether the Congress is to abdicate this responsibility in favor of an automatic dedication of scarce tax revenues.

It is just that simple, Mr. President; and while I support, and have always supported, the acquisition of additional necessary parkland for the use of our people, I can honestly see no reason why the acquisition of such parkland should enjoy an automatic priority, preference, and privilege on our already scarce Federal income. Particularly is this true with our national debt exceeding $350 billion, our people being asked to pay further taxes, and the need for other important Federal programs so pressing.

This is not a sound way to do business, Mr. President. No Senator here would earmark a specific part of his personal income for recreation or pleasure until he knew what his other obligations might be—food, clothing, shelter, and so forth. The same situation should prevail in the Congress. We must not earmark, dedicate, or freeze any further Federal revenues for the support of specific programs without being given an opportunity, through the appropriations process, to weigh those expenditures against all other requested expenditures.

Mr. HOLLAND. Mr. President, will the Senator yield at that point?

Mr. ELLENDER. I yield.

Mr. HOLLAND. Is it not true that when the Continental Shelf Act was passed, Congress decided and determined not to earmark the fund even for such an appealing purpose as the support of schools?

Mr. ELLENDER. The Senator is correct. As I recall, the Senate agreed to an amendment for that purpose, but in conference it was knocked out.

Mr. HOLLAND. Then Congress decided, in its wisdom, that to leave it free in the general revenue fund was wise, from the standpoint of serving the best interests of the country?

Mr. ELLENDER. The Senator is correct.

Mr. HOLLAND. Will the Senator yield for a further question?

Mr. ELLENDER. I yield.

Mr. HOLLAND. Is there any more reason to earmark this fund, or portions of it, for this specific purpose, than there would be to earmark the excise tax on telephone service or the excise tax on automobiles, or any other tax; and have we not steadfastly refused to earmark such funds, or any funds, for a specific purpose unless there was a direct connection between the source of the tax and the proposed expenditure?

Mr. ELLENDER. The Senator is correct. It would be in the same category. As I remarked a while ago, the $500 million which will be collected in the next 5 years from such sources as the park receipts, I can see that it would be well to use those funds to extend parks, beautify them, or improve their facilities. Even the funds from the sale of surplus land goes into the park fund.

Mr. HOLLAND. Did not the Senate decide, in passing on the Redwoods National Park, that it was a wise policy to exchange other public lands for lands that could be incorporated into that park?

Mr. ELLENDER. The Senator is correct.

Mr. HOLLAND. I thank the Senator. It seems to me that this proposal is extremely unwise, and that it departs from any precedent with which I have been familiar.

Mr. ELLENDER. I am thoroughly in accord with the Senator from Florida, and particularly oppose earmarking the funds at this time, when we have need for programs which in my opinion are much more important than the acquisition of more land for parks. If we had no parks at all, it would be different; but we have them scattered all over the country, and we have also, as I have stated, in every reclamation program and every flood control program undertaken, provided for recreation, even in our navigation projects we provide recreation sites.

I would rather support the park system that way, Mr. President, than to set aside these funds and buy huge acreages of land here and there, which may take a long time to develop.

My amendment would not harm the recreation program, Mr. President; it would merely prevent that program from enjoying a prededicated priority, and place it in precisely the same position as any other Federal program for which funds are requested.

Mr. President, I close by making a personal appeal to my friends in the Senate. I have been here for almost 32 years, and have devoted a great deal of my time and effort to trying to develop our land and water resources. I think we have done a very good job. Let us continue doing it as we have in the past. In my humble judgment, we should be able to continue that development in an orderly way, instead of requiring that all these funds be invested in park lands.

Mr. President, I have written each Senator requesting consideration and support for my amendment. I believe that

this letter is a clear statement of my position and I request unanimous consent that it be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR SENATOR: Seldom have I personally sought to influence individual Senators to vote for or against a specific proposal pending before the Senate. Because of the far-reaching fiscal effects which S. 1401, if adopted in its present form, would have upon the budget in the next five years, I urge you to support my amendment to the bill.

The bill would earmark $700 million more to the already dedicated revenues estimated to be about $500 million during the next five years.

My amendment would merely eliminate the earmarking of revenues derived from the Outer Continental Shelf leases, and would provide in place thereof, a general authorization in the same amount, i.e., $700 million.

I am opposed to the further earmarking of funds for any purpose, especially at this time when the Congress is being called upon to drastically cut existing programs, and is being asked to impose higher taxes. If the $700 million which is now going into our Treasury is arbitrarily dedicated to create more parks, Congress may well be unable to provide adequate funds to implement programs already in operation within the Department of Health, Education and Welfare. Funds have already been cut which would normally go to the federally impacted areas. What will Senators be able to say to their constituents if school terms were shortened, or if vitally needed public works are deferred? I am sure that defense expenditures will not be materially cut.

I urge you to support my amendment which would authorize appropriations for new parks and playgrounds, but would not give them priorities over more basic human requirements.

Without my amendment, Congress will be in the ludicrous position of constructing new parks and playgrounds ahead of schools, adequate housing and other essential programs.

Sincerely,

ALLEN J. ELLENDER,
U.S. Senator.

Mr. ELLENDER. Mr. President, as I have stated, I hope the Senate will agree to my amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. JACKSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 34 minutes remaining.

Mr. JACKSON. Mr. President, I yield 6 minutes to the junior Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, for the past week, we have been debating what use should be made of the Federal Government's revenues from the mineral resources of the Outer Continental Shelf.

As one with a deep interest in the development of our country's oceanologic programs, I am in sympathy with the idea that it would be appropriate to devote a portion of these revenues to our oceanologic programs.

Indeed, when I introduced the Sea Grant College and Program Act in 1965, I proposed that the program be financed with earmarked funds from Continental Shelf revenues. I withdrew that financing proposal because the executive department at that time opposed earmarking of those revenues. Recently, Senator MAGNUSON proposed setting aside a portion of the Continental Shelf revenues for marine research and the sea-grant college program, and I was most pleased to endorse his proposal.

But as a Senator from a coastal State, I see no great conflict in also devoting a portion of these revenues to park and recreational development. In my own State of Rhode Island, a substantial portion of land and water conservation fund money is used for acquisition and preservation of the recreational resources of the sea.

I do think, however, that we should take cognizance here of a problem that in the long run may prove more troublesome than the question of the most appropriate use of these mineral lease revenues. I refer to the question of jurisdiction over ocean resources.

While we are debating here the proper use of ocean mineral wealth, the nations of the world are preparing to debate in the United Nations much the same question—who owns the resources of the sea and seabed, and to what use should this wealth be dedicated.

I have made the point before that existing international law on jurisdiction over the resources of the sea is inadequate. We do not have, for example, a satisfactory legal definition of the Continental Shelf from which we are drawing mineral wealth.

On March 5, I introduced a draft treaty on ocean space with the hope that it would stimulate discussion of these issues within our Government and serve as the framework for an international agreement to eliminate uncertainties over jurisdiction in ocean space.

I do not think there is any doubt, Mr. President, that the revenues we are speaking of today are drawn from Continental Shelf areas that clearly fall within the present jurisdiction of the United States. But this may not be true 2, 5, or 10 years hence as technological advances allow us to mine minerals in ever-deeper waters, ever farther from our shores.

Mr. President, in supporting proposals to earmark Outer Continental Shelf revenues, I do not mean to endorse the idea, advanced by some, that the United States or any nation in the world can unilaterally lay claim to the mineral wealth of the deep ocean floor. Where the Continental Shelf and national jurisdiction ends must be clearly defined by international agreement.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. Mr. President, I yield 5 minutes to the Senator from Oregon.

Mr. MORSE. Mr. President, I have given a lot of thought to the merits of the bill, S. 1401, as reported by the Senate Interior Committee, and the merits of the amendment offered by the Senator from Louisiana.

It is my conclusion that the addition of Continental Shelf income to a fund to acquire land for recreation purposes runs afoul of two concerns that I have expressed over the years: First, that too much congressional responsibility is being turned over to administrative officials to use at their discretion without accountability to Congress or the public; and second, that the acquisition of private property for public use has strayed from the principle that public necessity must be proved before private property may be taken.

If there is need for the taking of private property for public use for recreation, why does not the Department of the Interior make its proposal, demonstrate the need, and then ask Congress for the authority and the funds to make the acquisition? Frankly, I think we are here to make those decisions. Article 4 of the Constitution states:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

The Constitution also gives Congress the authority to lay and collect taxes for the general welfare.

Why do we keep insisting that these duties are so difficult that we cannot handle them, and must turn them over to someone in the executive agencies, as though people working for the Department of the Interior were better able to make the decisions than we are?

Advocates of this fund say that money authorized for acquisition of recreational land has not been appropriated in full. I may say that as author of education legislation that has authorized billions for the education of our young people, I can tell this body something about underfunding of authorized programs. And that is not the only underfunding of authorized programs.

I see no reason in the world why in these difficult fiscal times we should give this special treatment and advantage to so-called recreational funds.

I will also say that if this money collected from the resources of the Outer Continental Shelf to be earmarked for anything, it should be earmarked for education, poverty, or some of the other domestic crises that confront us in our cities, such as are dealt with in the model cities bill and others. Those projects are much more important at this time.

If the funds are going to be earmarked, I think it is a mistake to earmark them for anything other than the critical needs which exist at this time. That was the principle for which I labored when Congress dealt with the Outer Continental Shelf in 1953.

Of course, every time revenues from any source are put into a fund of some kind, the control of Congress over the uses of public money declines. We are already told that only $20 billion of our national budget is "controllable." The controllable parts are those that come out of general appropriations. Every segment of our economy, every interest group in our Nation, is staking out a claim, so to speak, on the Federal Treasury by trying to get funds earmarked that will remove it from the "controllable" category.

We have to stop this process if we are to remain a legislative body. We cannot continue to wall off the Congress from controlling the stream of Federal inflow and outflow. That is what measures of

this kind do. They wall off Congress from the decisionmaking process.

I have read the assurances given by the chairman of the committee that money "earmarked" in this fund will still have to be appropriated in the usual way. But why, then, this fund? The reason is to create an obligation on the part of Congress to use this source of income for recreation and nothing else.

I do not call into question the merits of acquiring private land for recreational purposes. But I do question giving advance authority to an agency of the Federal Government to decide what is desirable for this purpose and giving statutory promise of money to carry out its decision. Only a part of the funds in this bill would carry out acquisitions already authorized. Much more is for future unspecified acquisitions.

I have favored, supported, and even cosponsored measures like the Indiana Dunes bill. The case was clear, it seemed to me, that park area for public use was needed in the metropolitan area of Chicago and northern Indiana. Congress was called upon to make that decision.

I have supported similar acquisitions. I have also opposed, may I say, in my own State a seashore park, the so-called, Oregon Dunes bill, because there it was proposed to give blanket authority to the Secretary of the Interior to condemn property without showing that the criteria of public necessity was applicable to each parcel of land.

Mr. President, I am not going to waive these constitutional checks, which I think are waived to an undesirable degree in this bill.

It seems to me that the showing should be made that each parcel must be acquired under the law of public necessity applying to that parcel.

That was the time, may I say to the Senator from Florida that in one of the Florida cases a park was set up, but the requirement was that there had to be a showing of the need for each parcel of land before there could be a taking.

Even assuming that the great need for more park land is in the eastern part of the country, there are great stretches of nationally owned property in the Eastern States, that in my opinion, are underused and underdeveloped for recreational purposes.

I deduce from the presentation of this measure that the fund set up earlier from fees charged to users of Federal recreation areas that the income from that source has not been enough. The Senator from Utah says $25 million less has come in than was expected. At least there is some correlation between the earmarking of user fees and the acquisition of park land, as there is between the earmarking of highway taxes and the construction of highways. But I cannot see dipping into another, unrelated source of Federal income to guarantee the acquisition of more recreation property. One might ask why user charges already in effect have not been sufficient; and I would challenge the advocates of this section of the bill to show that existing public land in the Eastern States, not to mention the Western States, is being used to its full capacity for recreational purposes.

Mr. President, I shall vote for funds for recreational purposes when the showing can be made that a particular piece of land ought to be set aside for recreational purposes. But I am not going to vote for the bill in its present form because it gives what I think is undesired blanket authority and priority to one Federal activity over other more urgent activities that are also badly underfunded.

Mr. JACKSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 28 minutes remaining.

Mr. JACKSON. Mr. President, I shall speak very briefly.

In 1953, the 83d Congress endeavored to deal with the problem of submerged lands, inaccurately described as "tidelands."

In that Congress, we voted to give to the coastal States all of the submerged lands and the minerals in them seaward of mean low tide out to the 3-mile limit with respect to the Atlantic and Pacific coastal States. However, in the case of the States on the Gulf of Mexico, the seaward boundary was to be the boundary with which a State was admitted to the Union, or the boundary as established in its State constitution as approved by Congress.

That was point No. 1 with respect to the submerged lands.

The effect of this congressional enactment in 1953 was to give to the coastal States very valuable property which the Supreme Court had ruled, directly, on three different occasions that these States did not own. Rather the Supreme Court had ruled that the property belonged, in effect, to the entire 50 States, the Federal Government.

Mr. President, the second point with respect to submerged lands was the measure considered that year, 1953, that declared that the mineral resources in the lands seaward of State sea boundaries were under the exclusive control of the Federal Government. This was the Outer Continental Shelf Lands Act. The States were specifically barred from claiming rights under this act to any part of the revenues from operations on the outer shelf.

Mr. President, the real question at issue here is not the earmarking of funds for Land and Water Conservation Act purposes for a iimited period, as the bill before us provides. It is whether in the long term the States that happen to abut the Outer Continental Shelf are to be given, in the future, certain special preferential rights to money that may be earned from the Outer Continental Shelf. This has been the real issue during this week of debate.

If this were not the case, there would not be this opposition. I must say that, coming as I do from a coastal State, it would be the most inequitable thing I could think of, after the action of Congress in 1953, not to make available on an equitable basis to all 50 States the proceeds from any operations respecting mineral operations in the Outer Continental Shelf. I feel very strongly, based on the position of Congress in 1953, that, whatever we do, the receipts from the minerals of the Outer Continental Shelf should be made available on an equitable basis to all 50 States.

ALL OF THE STATES SHOULD PARTICIPATE

I can understand that in the case of States adjoining this area, where there is a tremendous amount of revenue coming in, those States would want to obtain at some future time a preference on the funds that might be disbursed from the sale of leases and property on the Outer Continental Shelf. However, I cannot but feel that if this should be done, it would be most inequitable and unfair.

The question before the Senate at the moment is whether or not, on a reasonable basis, we are going to make available a small portion of these outer shelf revenues for a limited period for an established program in which all of the States participate and all benefit.

These outer shelf revenues currently have been running approximately $500 million a year or more. The bill proposes for the first 3 years to authorize appropriation from them of $100 million, or enough to bring the $100 million total to $200 million. We are currently making available approximately $100 million from sources provided in 1965. So for a 3-year period, total fund revenues would be $300 million. Under the bill as reported, for the last 2 years, total income to the fund would be $200 million additional, making a total of $700 million in additional revenues over a 5-year period.

I must say that if we are going to do anything about recreational opportunities, including seashore facilities and parks, if we are going to encourage the State to plan and build for these programs, then the new sources of income provided by S. 1401 are absolutely necessary.

QUESTION ONE OF EARMARKING FUNDS

As I understand the amendment of the senior Senator from Louisiana, it does not quarrel over the amount of money that should be made available. It deals solely with the question of whether or not these additional revenues, as proposed in S. 1401, should be earmarked funds. If we are going to encourage the States to bond themselves to appropriate money to match these funds, then there should be action on the part of Congress to give the States a secure basis for planning. When we set aside, when we dedicate the funds, it will encourage the States to put up the money. They can then bond themselves, as my State did, for a substantial period of time.

Obviously, in a given year, should we find it necessary to cut expenditures, Congress, under the pending measure and under the Land and Water Conservation Act, would retain authority not to appropriate money for fund purposes. Not a dime of the fund can be expended without an appropriation by Congress. Under present law, at the end of 2 years, if there is money in the earmarked funds that has not been utilized, it reverts into the general receipts of the Treasury.

ENCOURAGEMENT AND AID FOR THE STATES

Mr. President, what we really have been wrestling over during the period of time in connection with this matter is

how best to encourage the State to participate in this program and not leave it all to the Federal Government.

I believe that the approach of earmarking the funds, funds and proceeds from purely Federal lands outside the 50 States, is the sensible and the reasonable way to approach this problem.

Mr. President, I hope the amendment will be defeated. I believe that if passed it will discourage the States from participating in the land and water conservation program. It would have an adverse effect on the overall policy of Congress to encourage the States to participate with the Federal Government in making available additional recreational lands, park lands, seashore lands, and so forth.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I am ready to yield back the remainder of my time.

Mr. ELLENDER. Mr. President, I have only 1 minute remaining.

I am simply making a personal appeal to my friends of long standing in the Senate, to make it possible that these funds that now go into the Treasury continue to go there, and that these funds be appropriated in the same manner, for different programs, as we are now doing. I do not believe that any part of these funds should be earmarked for any special purpose.

There would be a good reason, but I am not advocating it, for some of these funds to be appropriated to control pollution in the Gulf of Mexico because of the presence of oil wells and gas wells which have been responsible for that pollution. But I am not asking for that. It will be done in the course of time, I presume.

I am very hopeful, Mr. President, that the amendment will be agreed to by the Senate.

The PRESIDING OFFICER. Does the Senator from Washington yield back the remainder of his time?

Mr. JACKSON. I am ready to yield back the remainder of my time.

Mr. LONG of Louisiana. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG of Louisiana. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. LONG of Louisiana. Has all time been yielded back?

Mr. JACKSON. I am prepared to yield back the remainder of my time.

Mr. ELLENDER. No time is left.

The PRESIDING OFFICER. The Senator from Louisiana has no time remaining.

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question now is on the motion of the Senator from Delaware to recommit the bill. That motion is debatable.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WITHDRAWAL OF MOTION TO RECOMMIT

Mr. WILLIAMS of Delaware. Mr. President, I withdraw the motion to recommit the bill.

The PRESIDING OFFICER. The motion to recommit the bill is withdrawn.

Mr. WILLIAMS of Delaware. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 2, line 23, after the date "June 30, 1971," strike out all down to and including date "1973" on line 25.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Mr. President, I request that the amendment be stated once more.

The PRESIDING OFFICER. The amendment will be stated again.

The legislative clerk read as follows:

On page 2, line 23, after the date "June 30, 1971," strike out all down to and including date "1973" on line 25.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending amendment occur at 4:45 p.m., and that the time be equally divided between the Senator from Delaware [Mr. WILLIAMS] and the chairman of the committee, the Senator from Washington [Mr. JACKSON].

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Mr. WILLIAMS of Delaware. Mr. President, under the existing law this program is funded with approximately $500 million over the next 5 years, or about $100 million per year. The program is funded in this manner: from the sale of surplus property under the Department of Interior about $45 to $60 million a year is derived; from the tax on motor vehicles, about $30 million; and from fees collected in the parks there is derived between $12 and $15 million. Under existing law these moneys would flow into the fund over the next 5 years. This is about $100 million per year.

The Director of the Bureau of the Budget requested that this allocation be doubled and instead of $500 million in the next 5 years the amount would be raised to $1 billion, or $200 million a year over the next 5 years.

The committee, in reporting the bill, went beyond that recommendation, and while they doubled the amount for the first 3 years and made the amount $200 million a year they tripled the amount in the last 2 years by raising the amount to $300 million a year, or a total of $1.2 billion.

Mr. President, the committee approach would provide $700 million over the existing law and $200 million over and above the amount requested by the Director of the Bureau of the Budget.

The pending amendment would strike from the bill the authorization for the last 2 years, which is $300 million a year. By agreeing to the amendment it would mean that there would be a reduction of $600 million in the amount authorized under the bill of $1.2 billion and it would reduce the amount of authority requested by the Director of the Bureau of the Budget by $400 million.

The proposal would not interfere with the program in the next 3 years but would leave it as proposed under the committee bill; namely, funded with $200 million a year.

Mr. President, I remind the Senate that less than a month ago we passed a bill authorizing an increase of taxes by 10 percent. Included as a part of that package was a provision that expenditures should be cut in fiscal year 1969 by at least $6 billion. There was an additional section which would direct the Director of the Bureau of the Budget to report back to the Congress within 30 days a plan whereby there would be a reduction in the requested budget authority in 1969 by a minimum of $10 billion. The $10 billion was supposed to be a reduction in the spending authority requested in the 1969 budget. This measure was passed with a vote of 53 to 31.

Here we have before us a bill which requests additional budget authority of $500 million; and the Senate committee went beyond that and instead added $700 million.

At some point somewhere along the line we will have to establish a series of priorities with respect to what we can afford and what we cannot afford. Certainly we have to start somewhere with programs which have much merit. I do not question for a moment that the bill before us, which deals with land and water conservation, is a meritorious bill and one which I favor. However, it is a question of how much money we can put into these programs. If we are going to reduce budget authority by $10 billion in fiscal 1969 we have to start somewhere and we must start with specific programs. The adoption of the pending amendment would mean a reduction of $400 million of the requested budget authority under the 1969 budget.

We are confronted with a deficit of $20 billion for fiscal 1968 and a deficit of $28 billion in fiscal 1969, or a total deficit of $48 billion in the 2 fiscal years; this does not include the extra $5.5 billion which the President has already requested as additional costs for acceleration of the war in Vietnam. Therefore, we are confronted with a deficit of about $53 billion for the next 2 years unless Congress and the administration, working togeth-

er, take some action to reduce spending and to raise taxes.

The PRESIDING OFFICER. The time of the Senator from Delaware has expired.

Mr. WILLIAMS of Delaware. I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 3 minutes.

Mr. WILLIAMS of Delaware. I think it will take a combination of both expenditure reductions and a tax increase, and that is the reason I supported so strongly the Williams-Smathers bill. I do not think as Members of the Senate we can justify voting for a bill which would direct the Bureau of the Budget to submit to us a plan for reducing the budget authority in the next fiscal year 1969 by $10 billion and then at the same time approving in the Senate, by our votes, an increase in the $700 million over last year's expenditures, or an increase of $200 million over and beyond what even the Bureau of the Budget requested.

As I said before, we must establish a set of priorities. Certainly as meritorious as parks, golf courses, and recreational facilities may be, there may be other priorities which are equally or perhaps more meritorious.

As the Senator from Oregon pointed out, we have education, poverty programs, programs for the cities, and many other programs dealing with the health and welfare of the people which will be before us. If we are going to hold down spending, as we have indicated we want to hold it down, and roll back the budget authority by $10 billion we should at least make a start somewhere, and I think that this is an appropriate place to do so.

By adopting the pending amendment, we would not be interfering with the next 3 years' operation but would be dropping off the last 2 years. Who knows what our fiscal situation will be by the end of the next 3 years? It makes sense to postpone that consideration and not commit ourselves for 5 years down the road for an additional $700 million at this particular time. The very least step we can take on this bill would be to approve the pending amendment and reduce the spending authority in this bill by $600 million.

Mr. LONG of Louisiana. Mr. President, will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. LONG of Louisiana. I could not agree more with the Senator. He knows that he was responsible for the amendment on the Senate floor that we voted on to cut spending by $6 billion below the budget. Now that resolution contained a directive to the Director of the Budget to undertake to cut authorizations by $10 billion. The Senator knows that in conference with the House on that bill, the House has been suggesting various language to us for discussion purposes which would indicate that there should be an even greater rescission of existing authorizations. Here is a dedication of funds, to which the Senator makes reference, which exceeds by $100 million a year what the Director of the Budget has asked for, when Congress is going to be asked to drastically cut it, in some instances right down to the bone, funds already justified and where we know precisely how much money has been justified. What the Senator is talking about is holding it down to the 3-year authorization, is he not?

Mr. WILLIAMS of Delaware. That is correct. At the end of the 3-year period we shall know more about the financial situation in this country. The Senator knows that in conference, working with the House, we have been more or less in disagreement for the past 3 or 4 weeks, and that Members of the House actually want this spending cut and the rescinding of obligational authority to be increased beyond what the Senate did. That seems to be the argument, that we did not go far enough even though we did approve the $10 billion reduction.

The PRESIDING OFFICER. The time of the Senator from Delaware has expired.

Mr. WILLIAMS of Delaware. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

Mr. WILLIAMS of Delaware. Certainly we should go that far. I cannot conceive of the Senate's passing this bill in its present form where we would be adding $700 million to the existing obligational authority and $200 million more than even the Director of the Budget has asked, particularly at a time when the Senate is telling the Director of the Budget, "You go down and establish some priorities and tell us where we can cut the $10 billion." The very least we can do is to show, in good faith, that we meant what we said, that we are really going to hold down the appropriations and the various authorizations.

I know that one of the arguments made is, "All right, this is an authorization, and Congress later does not have to appropriate it." I have heard that argument many times, but we all know that an authorization, once made, sooner or later becomes an obligation.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I shall be brief. The original bill as introduced, S. 1401, provided among other things for the dedication of all the receipts from the Outer Continental Shelf over a 5-year period to assist the land and water conservation fund, as well as the Federal share of the revenues from Mineral Leasing Act and forest operations. Total income might have amounted to $2½ or $3 billion over the 5-year period.

I might mention by the way that the whole concept of setting up the land and water conservation fund had its genesis in the report of the Commission headed by Laurence Rockefeller; namely, the Outdoor Recreation Resources Review Commission, which was established by President Eisenhower, I believe, in 1958 or 1959.

The income to the fund has been below minimal needs, and so it was proposed to tap the Outer Continental Shelf. The proposal had strong support from the States and public spirited citizens concerned with outdoor recreation, including Laurance Rockefeller, who has given so much of his time and effort to the cause of conservation.

S. 1401 was introduced over a year ago. As chairman of the committee, I became convinced that there would have to be a substantial cutback on the earmarking initially proposed for the 5-year period. The administrative agencies recommended and urged such a cutback.

PROPOSED REVENUE CUT BACK

In the committee we discussed the question at length. We finally reduced the total from the $2.5 billion to $3 billion that would have been made available to $700 million in additional funds. That is the way it stands at the moment as now before the Senate.

The Senator's amendment would reduce the total of $700 million to $300 million, a $400 million cutback, as I understand it, in his amendment.

Mr. WILLIAMS of Delaware. $400 million below the budget figure; $600 million below the bill's figure.

Mr. JACKSON. That is right: $600 million below the bill because the last 2 years provide in the bill for $300 million a year, and the budget proposal was $200 million. So it would be a $600 million reduction bringing it down to the lower figure.

Mr. President, again I want to simply state that it is pretty hard to predict in advance what the budgetary situation will be in the last 2 years. We have tried to give some broad guidelines to the States, indicating what funds have been earmarked, putting them on notice, though, that the Appropriations Committees of the House and Senate will have to decide, on an annual basis, how much money will be available.

UNAPPROPRIATED MONEY REVERTS TO TREASURY

All the money will be in the Treasury. The fact that it is earmarked is a bookkeeping matter only. As I pointed out previously, at the end of the 2 years, if the money is not appropriated, it will revert to the general receipts of the Treasury. As far as the overall balance of income and outgo is concerned, the Federal Government would not be affected.

The key thing—and some of the most influential people in this field in the country have made this point—is that it will give essential guidance to the States and give them a chance to participate—on a relatively secure basis.

Heretofore the burden has been primarily in the hands of the Federal Government. When there is more money available, on an earmarked basis, to be matched by the States, the States are encouraged to participate more fully.

I think the bill now pending before the Senate is a reasonable and prudent proposal. The States are given broad guidelines and basis for long-range planning. Congress each year, during the next 5 years, will have an opportunity to determine how much shall be appropriated, depending on the fiscal situation.

Mr. President, I am prepared to yield back my time.

Mr. WILLIAMS of Delaware. Mr. President, I shall take only 2 minutes.

The Senator from Washington is cor-

rect. The committee did provide that the amount in the original bill would be increased by 600 percent. But the bill before us still provides for a little more than double the amount. I repeat, under the pending bill we are more than doubling an expenditure in a program at a time when both the Senate and the House are saying we must establish priorities and there must be reductions.

The argument that the money will be in the Treasury is correct, but when this money which belongs to the taxpayers is diverted it means additional taxes must be raised.

As I pointed out, we are spending at a rate of $2 billion a month more than we are taking in. That has been the average for 1968 and 1969. Something has to give somewhere. The administration thus far seems to want a tax increase, but the question is, Will it support a reduction in expenditures?

Here in this particular bill is an instance where Congress is being asked to double the expenditures for this program. The request is to double the expenditures for the next few years. It is a meritorious program, but do we have the money continually to double the expenditures for any program? Somewhere Congress and the administration are going to have to face up to this problem.

If we are not going to cut expenditures we should tell the American people that there will be no reduction in spending and no tax increase, but that we will go on our merry way and continue to pile up our debt, and as a result, pay huge interest and destroy the value of the American dollar. The spending by the Federal Government has already forced the interest rates to the highest they have been in the last 100 years. Recently, on a Government-guaranteed obligation the interest rate was 6.45 percent. The irony of it is that this bond issue was only offered in $5,000 bonds, so that the average little fellow will not be able to take any advantage of that high interest. He will get only 4.15 percent interest from buying E bonds.

I conclude by calling attention again to the fact that the Senate has gone on record that it wants the Director of the Budget to show us how we can reduce the spending authority in the fiscal 1969 budget by a minimum of $10 billion. Here is a place where we can, by not jeopardizing the program one iota, drop the budget authority $400 million and drop the spending authority under the bill by a total of $600 million, because it would eliminate the $200 million extra added by the committee.

Mr. JACKSON. Mr. President, a second look at the Senator's amendment leaves me with the impression—and I am sure he did not intend to do it—that the amendment will have the effect of knocking out all funds for the land and water conservation fund for the fiscal years 1972 and 1973. I wish to call that to the Senator's attention, because the amount of money we are talking about in the fund from all sources, including the sources provided in the 1964 act, is $300 million. When we use the figure $200 million for the first 3 years, we are talking about, roughly, $100 million from current sources and an additional $100 million from receipts from the Outer Continental Shelf. When we talk about fiscal year ending June 30, 1972, and June 30, 1973, of $300 million each, we are talking about $100 million out of existing sources; namely, receipts from unreclaimed motorboat fuel taxes, from admission and user fees, and from sales of surplus Federal real property——

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. WILLIAMS of Delaware. The Senator has made a good point. I wish to correct my amendment. I want to change that to 3 fiscal years and change the date to 1971, rather than 1973. That was my intention.

Mr. President, I ask unanimous consent to modify my amendment to include that, on line 12, page 2, "five" be stricken out and "three" be inserted in lieu thereof, and, on the same line, to strike out "1973" and insert "1971." That carries out my intention.

The PRESIDING OFFICER. Without objection, the modifications are made.

Mr. WILLIAMS of Delaware. Mr. President, I yield back my time.

Mr. JACKSON. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Delaware. All time on the amendment has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Alaska [Mr. GRUENING], the Senator from Missouri [Mr. LONG], and the Senator from Utah [Mr. MOSS] are absent on official business.

I also announce that the Senator from Tennessee [Mr. GORE], the Senator from Oklahoma [Mr. HARRIS], the Senator from Michigan [Mr. HART], the Senator from Arizona [Mr. HAYDEN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Maine [Mr. MUSKIE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Florida [Mr. SMATHERS], and the Senator from Virginia [Mr. SPONG] are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. CANNON], the Senator from Alaska [Mr. GRUENING], the Senator from Michigan [Mr. HART], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Connecticut [Mr. RIBICOFF] would each vote "nay."

On this vote, the Senator from South Carolina [Mr. HOLLINGS] is paired with the Senator from Utah [Mr. MOSS]. If present and voting, the Senator from South Carolina would vote "yea," and the Senator from Utah would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. DOMINICK] and the Senator from Oregon [Mr. HATFIELD] are absent on official business.

The Senator from Delaware [Mr. BOGGS] is absent to attend the funeral of a friend.

The Senator from Colorado [Mr. ALLOTT], the Senator from New Hampshire [Mr. COTTON], the Senator from Nebraska [Mr. CURTIS], the Senator from Arizona [Mr. FANNIN], the Senator from New York [Mr. JAVITS], the Senator from California [Mr. KUCHEL], the Senator from South Dakota [Mr. MUNDT], the Senator from Illinois [Mr. PERCY], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Tennessee [Mr. BAKER] is detained on official business.

On this vote, the Senator from Delaware [Mr. BOGGS] is paired with the Senator from California [Mr. KUCHEL]. If present and voting, the Senator from Delaware would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Illinois [Mr. PERCY] is paired with the Senator from Arizona [Mr. FANNIN]. If present and voting, the Senator from Illinois would vote "yea," and the Senator from Arizona would vote "nay."

On this vote, the Senator from Texas [Mr. TOWER] is paired with the Senator from New York [Mr. JAVITS]. If present and voting, the Senator from Texas would vote "yea," and the Senator from New York would vote "nay."

On this vote, the Senator from Nebraska [Mr. CURTIS] is paired with the Senator from Oregon [Mr. HATFIELD]. If present and voting, the Senator from Nebraska would vote "yea," and the Senator from Oregon would vote "nay."

The result was announced—yeas 39, nays 29, as follows:

[No. 122 Leg.]

YEAS—39

Aiken	Hickenlooper	Proxmire
Bartlett	Hill	Randolph
Bennett	Holland	Russell
Brooke	Hruska	Scott
Byrd, Va.	Jordan, N.C.	Smith
Byrd, W. Va.	Long, La.	Sparkman
Carlson	McClellan	Stennis
Cooper	Miller	Symington
Dirksen	Morse	Talmadge
Dodd	Morton	Thurmond
Ellender	Murphy	Williams, Del.
Ervin	Pearson	Yarborough
Fong	Prouty	Young, N. Dak.

NAYS—29

Anderson	Griffin	McIntyre
Bayh	Hansen	Metcalf
Bible	Hartke	Mondale
Brewster	Inouye	Monroney
Burdick	Jackson	Nelson
Case	Jordan, Idaho	Pell
Church	Magnuson	Tydings
Clark	Mansfield	Williams, N.J.
Eastland	McGee	Young, Ohio
Fulbright	McGovern	

NOT VOTING—32

Allott	Hart	Montoya
Baker	Hatfield	Moss
Boggs	Hayden	Mundt
Cannon	Hollings	Muskie
Cotton	Javits	Pastore
Curtis	Kennedy, Mass.	Percy
Dominick	Kennedy, N.Y.	Ribicoff
Fannin	Kuchel	Smathers
Gore	Lausche	Spong
Gruening	Long, Mo.	Tower
Harris	McCarthy	

So the amendment of Mr. WILLIAMS of Delaware was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, if the distinguished senior Senator from Louisiana will yield for a moment, I suggest, now that we have taken this action, that to make the amendment of the Senator from Louisiana conform we strike out on line 9 on page 1 of his amendment, the last word on the line, "and", and the two lines on page 2.

Mr. ELLENDER. Mr. President, I was going to suggest that after the 1971, we put a period and strike the word "and" and the two lines on page 2 of the amendment.

The PRESIDING OFFICER. Is that a modification or an amendment?

Mr. ELLENDER. It is a modification of my amendment.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. ELLENDER. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Louisiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote I have a pair with the distinguished Senator from California [Mr. KUCHEL]. If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. INOUYE (when his name was called). On this vote I have a pair with the distinguished Senator from Connecticut [Mr. RIBICOFF]. If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

The legislative clerk resumed and concluded the call of the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Oklahoma [Mr. HARRIS], the Senator from Michigan [Mr. HART], the Senator from Arizona [Mr. HAYDEN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Maine [Mr. MUSKIE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Connecticut [Mr. RIBICOFF], and the Senator from Virginia [Mr. SPONG] are necessarily absent.

I also announce that the Senator from Nevada [Mr. CANNON], the Senator from Alaska [Mr. GRUENING], the Senator from Missouri [Mr. LONG], and the Senator from Utah [Mr. Moss] are absent on official business.

On this vote, the Senator from South Carolina [Mr. HOLLINGS] is paired with the Senator from Utah [Mr. Moss]. If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Utah would vote "nay."

I further announce that, if present and voting, the Senator from Nevada [Mr. CANNON], the Senator from Alaska [Mr. GRUENING], the Senator from Michigan [Mr. HART], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from New Mexico [Mr. MONTOYA], and the Senator from Rhode Island [Mr. PASTORE] would each vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. DOMINICK], and the Senator from Oregon [Mr. HATFIELD] are absent on official business.

The Senator from Delaware [Mr. BOGGS] is absent to attend the funeral of a friend.

The Senator from Colorado [Mr. ALLOTT], the Senator from New Hampshire [Mr. COTTON], the Senator from Nebraska [Mr. CURTIS], the Senator from Arizona [Mr. FANNIN], the Senator from New York [Mr. JAVITS], the Senator from California [Mr. KUCHEL], the Senator from South Dakota [Mr. MUNDT], the Senator from Illinois [Mr. PERCY], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Tennessee [Mr. BAKER] is detained on official business.

If present and voting, the Senator from Oregon [Mr. HATFIELD], and the Senator from Illinois [Mr. PERCY] would each vote "nay."

The respective pair of the Senators from California [Mr. KUCHEL], and that of the Senator from Texas [Mr. TOWER] have been previously announced.

On this vote, the Senator from Delaware [Mr. BOGGS] is paired with the Senator from New York [Mr. JAVITS]. If present and voting, the Senator from Delaware would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Nebraska [Mr. CURTIS] is paired with the Senator from Arizona [Mr. FANNIN]. If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 37, nays 29, as follows:

[No. 123 Leg.]

YEAS—37

Bartlett	Hickenlooper	Russell
Bayh	Hill	Smathers
Byrd, Va.	Holland	Smith
Byrd, W. Va.	Hruska	Sparkman
Carlson	Jordan, N.C.	Stennis
Cooper	Long, La.	Symington
Dodd	McClellan	Talmadge
Eastland	Miller	Thurmond
Ellender	Morse	Williams, Del.
Ervin	Morton	Yarborough
Fong	Murphy	Young, N. Dak.
Fulbright	Pearson	
Hartke	Randolph	

NAYS—29

Aiken	Griffin	Monroney
Anderson	Hansen	Nelson
Bennett	Jackson	Pell
Bible	Jordan, Idaho	Prouty
Brewster	Magnuson	Proxmire
Brooke	McGee	Scott
Burdick	McGovern	Tydings
Case	McIntyre	Williams, N.J.
Church	Metcalf	Young, Ohio
Clark	Mondale	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—3

Dirksen, for.
Inouye, for.
Mansfield, against.

NOT VOTING—31

Allott	Hart	Montoya
Baker	Hatfield	Moss
Boggs	Hayden	Mundt
Cannon	Hollings	Muskie
Cotton	Javits	Pastore
Curtis	Kennedy, Mass.	Percy
Dominick	Kennedy, N.Y.	Ribicoff
Fannin	Kuchel	Spong
Gore	Lausche	Tower
Gruening	Long, Mo.	
Harris	McCarthy	

So Mr. ELLENDER's amendment was agreed to.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLAND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM—ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, there will be no further voting on the pending business this afternoon. I understand that perhaps more amendments will be offered tomorrow.

Therefore, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Again, for the information of the Senate, there will be no further voting on the pending business today.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey in the chair). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 16 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, April 30, 1968, at 12 o'clock.